

**As Reported by the Senate Finance Committee**

**129th General Assembly**

**Regular Session**

**2011-2012**

**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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261.10.50, 261.10.60, 261.10.80, 261.10.90, 291  
261.20.10, 261.20.20, 261.20.70, 261.30.50, and 292  
263.10.80 of Am. Sub. H.B. 153 of the 129th 293  
General Assembly; and Section 2 of Am. Sub. S.B. 294  
63 of the 121st General Assembly and to amend the 295  
versions of sections 5122.31, 5123.19, and 5123.61 296  
of the Revised Code that are scheduled to take 297  
effect October 1, 2012, to continue the provisions 298  
of this act on and after that effective date; to 299  
make operating and other appropriations and to 300  
provide authorization and conditions for the 301  
operation of state programs. 302

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

**Section 101.01.** That sections 7.10, 7.16, 9.34, 102.02, 303  
103.05, 105.41, 107.54, 109.33, 109.57, 109.572, 109.801, 119.032, 304  
121.04, 121.08, 121.083, 121.084, 123.01, 123.011, 123.07, 123.09, 305  
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5739.01, 5739.02, 5743.03, 5743.031, 5751.033, 5751.12, 6109.21, 427  
6111.46, 6117.39, and 6119.11 be amended; sections 123.011 428  
(123.22), 123.024 (123.06), 123.04 (123.02), 123.07 (123.03), 429  
123.08 (123.18), 123.09 (123.04), 123.10 (123.05), 123.101 430  
(123.27), 123.11 (123.07), 123.13 (123.08), 123.14 (123.09), 431  
123.15 (123.10), 123.17 (123.24), 123.21 (123.11), 123.46 432  
(123.12), 123.47 (123.13), 123.48 (123.14), 123.49 (123.15), 433  
123.77 (123.17), 185.01 (3701.92), 185.02 (3701.923), 185.03 434  
(3701.924), 185.05 (3701.925), 185.06 (3701.926), 185.07 435  
(3701.927), 185.09 (3701.928), 185.12 (3701.929), 1502.01 436  
(3736.01), 1502.02 (3736.03), 1502.03 (3736.02), 1502.04 437  
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(3736.07), 1502.12 (3734.822), 1502.99 (3736.99), 3702.522 439  
(3702.521), 3702.523 (3702.522), 3702.524 (3702.523), 3702.525 440  
(3702.524), 3702.526 (3702.525), 3733.02 (4781.26), 3733.021 441  
(4781.31), 3733.022 (4781.32), 3733.024 (4781.33), 3733.025 442  
(4781.34), 3733.03 (4781.27), 3733.04 (4781.28), 3733.05 443  
(4781.29), 3733.06 (4781.30), 3733.07 (4781.301), 3733.08 444

(4781.35), 3733.09 (4781.36), 3733.091 (4781.37), 3733.10 445  
(4781.38), 3733.101 (4781.39), 3733.11 (4781.40), 3733.12 446  
(4781.41), 3733.121 (4781.42), 3733.122 (4781.43), 3733.123 447  
(4781.44), 3733.13 (4781.45), 3733.14 (4781.46), 3733.15 448  
(4781.47), 3733.16 (4781.48), 3733.17 (4781.49), 3733.18 449  
(4781.50), 3733.19 (4781.51), 3733.20 (4781.52), 5123.169 450  
(5123.1610), 5503.21 (5502.05), 5503.22 (5502.06), and 5503.23 451  
(5502.07) be amended for the purpose of adopting new section 452  
numbers as indicated in parentheses; and new sections 123.21, 453  
3701.33, 3701.34, 3702.526, 4905.80, 4905.81, 4921.01, 4921.03, 454  
4921.05, 4921.07, 4921.09, 4921.11, 4921.13, 4921.15, 4921.16, 455  
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4923.02, 4923.04, 4923.06, 4923.07, 4923.09, 4923.11, 4923.99, 457  
5123.169, and 5123.192 and sections 101.312, 119.033, 121.35, 458  
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3701.931, 3701.932, 3701.933, 3701.934, 3701.935, 3701.936, 464  
3701.937, 3701.938, 3701.9310, 3701.9311, 3701.9312, 3701.9314, 465  
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4923.15, 5111.246, 5111.946, 5111.96, 5112.331, 5139.511, 469  
5705.252, 5705.72, and 5713.012 of the Revised Code be enacted to 470  
read as follows: 471

**Sec. 7.10.** For the publication of advertisements, notices, 472  
and proclamations, except those relating to proposed amendments to 473  
the Ohio Constitution, required to be published by a public 474  
officer of the state, a benevolent or other public institution, a 475

trustee, assignee, executor, or administrator, or by or in any 476  
court of record, except when the rate is otherwise fixed by law, 477  
publishers of newspapers may charge and receive for such 478  
advertisements, notices, and proclamations rates charged on annual 479  
contracts by them for a like amount of space to other advertisers 480  
who advertise in its general display advertising columns. 481

For the publication of advertisements, notices, or 482  
proclamations required to be published by a public officer of a 483  
county, municipal corporation, township, school, or other 484  
political subdivision, publishers of newspapers shall establish a 485  
government rate, which shall include free publication of 486  
advertisements, notices, or proclamations on the newspaper's 487  
internet web site, if the newspaper has one. The government rate 488  
shall not exceed the lowest classified advertising rate and lowest 489  
insert rate paid by other advertisers. 490

Legal advertising, except that relating to proposed 491  
amendments to the Ohio Constitution, shall be set up in a compact 492  
form, without unnecessary spaces, blanks, or headlines, and 493  
printed in not smaller than six-point type. The type used must be 494  
of such proportions that the body of the capital letter M is no 495  
wider than it is high and all other letters and characters are in 496  
proportion. 497

Except as provided in section 2701.09 of the Revised Code, 498  
all legal advertisements or notices shall be printed in ~~newspapers~~ 499  
a newspaper of general circulation ~~and also shall be posted on the~~ 500  
~~state public notice web site created under section 125.182 of the~~ 501  
~~Revised Code,~~ and on a the newspaper's internet web site, if the 502  
newspaper has one. 503

**Sec. 7.16.** (A) As used in this section: 504

(1) "State agency" means any organized body, office, agency, 505  
institution, or other entity established by the laws of the state 506

for the exercise of any function of state government, including 507  
state institutions of higher education, as defined in section 508  
3345.011 of the Revised Code. 509

(2) "Political subdivision" has the meaning defined in 510  
section 2744.01 of the Revised Code. 511

(B) If a section of the Revised Code or an administrative 512  
rule requires a state agency or a political subdivision ~~of the~~ 513  
~~state~~ to publish a notice or advertisement two or more times in a 514  
newspaper of general circulation and the section or administrative 515  
rule refers to this section, the first publication of the notice 516  
or advertisement shall be made in its entirety in a newspaper of 517  
general circulation and may be made in a preprinted insert in the 518  
newspaper, but the second publication otherwise required by that 519  
section or administrative rule may be made in abbreviated form in 520  
a newspaper of general circulation in the state or in the 521  
political subdivision, as designated in that section or 522  
administrative rule, and on the newspaper's internet web site, if 523  
the newspaper has one. The state agency or political subdivision 524  
may eliminate any further newspaper publications required by that 525  
section or administrative rule, provided that the second, 526  
abbreviated notice or advertisement meets all of the following 527  
requirements: 528

(1) It is published in the newspaper of general circulation 529  
in which the first publication of the notice or advertisement was 530  
made and is published on that newspaper's internet web site, if 531  
the newspaper has one. 532

(2) It is published on the state public notice web site 533  
established under section 125.182 of the Revised Code. 534

(3) It includes a title, followed by a summary paragraph or 535  
statement that clearly describes the specific purpose of the 536  
notice or advertisement, and includes a statement that the notice 537

or advertisement is posted in its entirety on the state public 538  
notice web site ~~established under section 125.182 of the Revised~~ 539  
~~Code~~. The notice or advertisement also may be posted on the state 540  
agency's or political subdivision's internet web site. 541

~~(3)~~(4) It includes the internet addresses of the state public 542  
notice web site, and of the newspaper's and state agency's or 543  
political subdivision's internet web site if the notice or 544  
advertisement is posted on those web sites, and the name, address, 545  
telephone number, and electronic mail address of the state agency, 546  
political subdivision, or other party responsible for publication 547  
of the notice or advertisement. 548

~~(B)~~(C) A notice or advertisement published under this section 549  
on an internet web site shall be published in its entirety in 550  
accordance with the section of the Revised Code or the 551  
administrative rule that requires the publication. 552

~~(C)~~(D) ~~If a state agency or political subdivision does not~~ 553  
~~operate and maintain, or ceases to operate and maintain, an~~ 554  
~~internet web site, and if~~ the state public notice web site 555  
established under section 125.182 of the Revised Code is not 556  
operational, the state agency or political subdivision shall not 557  
publish a notice or advertisement under this section, but instead 558  
shall comply with the publication requirements of the section of 559  
the Revised Code or the administrative rule that refers to this 560  
section. 561

**Sec. 9.34.** (A) The fiscal year of the state ~~and of~~, every 562  
school district, and, beginning July 1, 2013, the city of 563  
Cincinnati, shall begin on the first day of July of each calendar 564  
year and end at the close of the thirtieth day of June of the 565  
succeeding calendar year. The fiscal year of every school library 566  
district, and all political subdivisions or taxing ~~districts~~ units 567  
except school districts and the city of Cincinnati, and of every 568

officer, department, commission, board, or institution thereof, 569  
shall begin at the opening of the first day of January of each 570  
calendar year and end at the close of the succeeding thirty-first 571  
day of December. Except as otherwise provided for school districts 572  
and as otherwise provided in division (B) of this section, all 573  
laws relating to the levying of taxes, the collection, 574  
appropriation, or expenditure of revenues, or the making of 575  
financial reports or statements for a fiscal year or other year 576  
refer and apply to the fiscal year as defined in this division. 577  
Reports required by sections 3319.32 to 3319.37 of the Revised 578  
Code shall be for the school year as defined in section 3313.62 of 579  
the Revised Code. 580

(B) Nothing in this section prohibits a subdivision, other 581  
than a school district or county school financing district, from 582  
using a different fiscal year or other fiscal period for one or 583  
more of its funds, including when that fiscal year or period is 584  
the same as the fiscal year of an entity providing money for the 585  
fund or the fiscal period of a capital project. Use of a different 586  
fiscal year or period shall be consistent with generally accepted 587  
accounting principles, and shall be approved by the fiscal officer 588  
of the subdivision and by the auditor of state. If a subdivision 589  
uses a different fiscal year or period under this section, the 590  
auditor of state may require the subdivision to continue to 591  
maintain financial reports or statements on the basis of the 592  
fiscal year prescribed by division (A) of this section. 593

(C) Taxes or other revenues collected in or on hand in any 594  
fiscal year for the purposes of the next or any subsequent fiscal 595  
year shall not be appropriated or expended prior to such next or 596  
subsequent year. School district property taxes shall be subject 597  
to appropriation as provided in division (B) of section 5705.35 of 598  
the Revised Code. Budgets shall be designated and known by the 599  
fiscal year for the purposes for which they are made. 600

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

Sec. 101.312. (A) The person serving as the senate sergeant at arms or employed as an assistant senate sergeant at arms has all of the authority of a peace officer as specified in division (B) of this section, and one of the following shall apply to that person:

(1) The person is serving as the senate sergeant at arms or is employed as an assistant senate sergeant at arms on the effective date of this section and previously had been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program.

(2) The person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program, the person previously has been employed as a peace officer, the prior employment of the person as a peace officer contains no breaks in service that would require the person to receive updated training by the Ohio peace officer training academy, and the person has successfully completed a firearms requalification program under section 109.801 of the Revised Code.

(3) The person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program, the person

previously has been employed as a peace officer, the prior 632  
employment of the person as a peace officer contains a break in 633  
service of one year or more but not more than four years that 634  
would require the person to receive updated training under state 635  
law, the person has received all updated training required by law, 636  
and the person has successfully completed a firearms 637  
requalification program under section 109.801 of the Revised Code. 638

(4) The person previously has been employed as a trooper of 639  
the state highway patrol, within one year prior to employment as 640  
the senate sergeant at arms the person had arrest authority as a 641  
trooper of the state highway patrol, and the person has 642  
successfully completed a firearms requalification program under 643  
section 109.801 of the Revised Code. 644

(5) The person previously has been employed as a trooper of 645  
the state highway patrol, the prior employment as a trooper of the 646  
state highway patrol contains a break in service of one year or 647  
more but not more than four years that would require the person to 648  
receive updated training under state law, the person has received 649  
all updated training required by law, and the person has 650  
successfully completed a firearms requalification program under 651  
section 109.801 of the Revised Code. 652

(B) The senate sergeant at arms and an assistant senate 653  
sergeant at arms have the authority specified under section 654  
2935.03 of the Revised Code for peace officers to enforce all 655  
state laws, municipal ordinances, and township resolutions and to 656  
make arrests for any violation of those laws, ordinances, and 657  
resolutions in the statehouse or anywhere in the state where the 658  
senate sergeant at arms or the assistant sergeant at arms is 659  
engaged in the performance of the senate sergeant at arms's or 660  
assistant sergeant at arms's official duties. The jurisdiction of 661  
the senate sergeant at arms and of an assistant senate sergeant at 662  
arms is concurrent with that of peace officers of the county, 663

township, or municipal corporation in which the violation occurs 664  
and with the state highway patrol. 665

(C) Upon receiving a written recommendation from the clerk of 666  
the senate, the president of the senate may issue to the senate 667  
sergeant at arms a commission indicating the sergeant at arms's 668  
authority to make arrests as provided in this section. The 669  
president of the senate, upon the recommendation of the senate 670  
sergeant at arms, may issue to each assistant senate sergeant at 671  
arms a commission indicating the assistant sergeant at arms's 672  
authority to make arrests as provided in this section. The 673  
president of the senate shall furnish a suitable badge to the 674  
senate sergeant at arms and to each commissioned assistant senate 675  
sergeant at arms as evidence of the senate sergeant at arms's or 676  
assistant senate sergeant at arms's authority. 677

(D) In order to maintain employment as the senate sergeant at 678  
arms or to be an assistant sergeant at arms with all of the 679  
authority of a peace officer, the sergeant at arms or assistant 680  
shall comply with all continuing professional training 681  
requirements for peace officers established in rules that the 682  
attorney general adopts under section 109.74 of the Revised Code 683  
and shall comply with firearms requalification requirements 684  
established under section 109.801 of the Revised Code. The senate 685  
sergeant at arms or assistant sergeant at arms shall provide 686  
appropriate proof of the sergeant at arms's or assistant's 687  
compliance with the continuing professional training requirements 688  
and firearms requalification requirements to the clerk of the 689  
senate. The Ohio peace officer training academy, a state, county, 690  
municipal, or department of natural resources training program, or 691  
any other program offering continuing training of that nature 692  
shall admit the senate sergeant at arms or an assistant senate 693  
sergeant at arms to all necessary continuing training programs. 694

(E) This section does not affect or abridge the authority or 695

responsibility of the state highway patrol. 696

**Sec. 102.02.** (A) Except as otherwise provided in division (H) 697  
of this section, all of the following shall file with the 698  
appropriate ethics commission the disclosure statement described 699  
in this division on a form prescribed by the appropriate 700  
commission: every person who is elected to or is a candidate for a 701  
state, county, or city office or an office of a township with a 702  
population of five thousand or more, as determined by the most 703  
recent federal decennial census, and every person who is appointed 704  
to fill a vacancy for an unexpired term in such an elective 705  
office; all members of the state board of education; the director, 706  
assistant directors, deputy directors, division chiefs, or persons 707  
of equivalent rank of any administrative department of the state; 708  
the president or other chief administrative officer of every state 709  
institution of higher education as defined in section 3345.011 of 710  
the Revised Code; the executive director and the members of the 711  
capitol square review and advisory board appointed or employed 712  
pursuant to section 105.41 of the Revised Code; all members of the 713  
Ohio casino control commission, the executive director of the 714  
commission, all professional employees of the commission, and all 715  
technical employees of the commission who perform an internal 716  
audit function; the individuals set forth in division (B)(2) of 717  
section 187.03 of the Revised Code; the chief executive officer 718  
and the members of the board of each state retirement system; each 719  
employee of a state retirement board who is a state retirement 720  
system investment officer licensed pursuant to section 1707.163 of 721  
the Revised Code; the members of the Ohio retirement study council 722  
appointed pursuant to division (C) of section 171.01 of the 723  
Revised Code; employees of the Ohio retirement study council, 724  
other than employees who perform purely administrative or clerical 725  
functions; the administrator of workers' compensation and each 726  
member of the bureau of workers' compensation board of directors; 727

the bureau of workers' compensation director of investments; the 728  
chief investment officer of the bureau of workers' compensation; 729  
all members of the board of commissioners on grievances and 730  
discipline of the supreme court and the ethics commission created 731  
under section 102.05 of the Revised Code; every business manager, 732  
treasurer, or superintendent of a city, local, exempted village, 733  
joint vocational, or cooperative education school district or an 734  
educational service center; every person who is elected to or is a 735  
candidate for the office of member of a board of education of a 736  
city, local, exempted village, joint vocational, or cooperative 737  
education school district or of a governing board of an 738  
educational service center that has a total student count of 739  
twelve thousand or more as most recently determined by the 740  
department of education pursuant to section 3317.03 of the Revised 741  
Code; every person who is appointed to the board of education of a 742  
municipal school district pursuant to division (B) or (F) of 743  
section 3311.71 of the Revised Code; all members of the board of 744  
directors of a sanitary district that is established under Chapter 745  
6115. of the Revised Code and organized wholly for the purpose of 746  
providing a water supply for domestic, municipal, and public use, 747  
and that includes two municipal corporations in two counties; 748  
every public official or employee who is paid a salary or wage in 749  
accordance with schedule C of section 124.15 or schedule E-2 of 750  
section 124.152 of the Revised Code; members of the board of 751  
trustees and the executive director of the southern Ohio 752  
agricultural and community development foundation; all members 753  
appointed to the Ohio livestock care standards board under section 754  
904.02 of the Revised Code; and every other public official or 755  
employee who is designated by the appropriate ethics commission 756  
pursuant to division (B) of this section. 757

The disclosure statement shall include all of the following: 758

(1) The name of the person filing the statement and each 759

member of the person's immediate family and all names under which 760  
the person or members of the person's immediate family do 761  
business; 762

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 763  
and except as otherwise provided in section 102.022 of the Revised 764  
Code, identification of every source of income, other than income 765  
from a legislative agent identified in division (A)(2)(b) of this 766  
section, received during the preceding calendar year, in the 767  
person's own name or by any other person for the person's use or 768  
benefit, by the person filing the statement, and a brief 769  
description of the nature of the services for which the income was 770  
received. If the person filing the statement is a member of the 771  
general assembly, the statement shall identify the amount of every 772  
source of income received in accordance with the following ranges 773  
of amounts: zero or more, but less than one thousand dollars; one 774  
thousand dollars or more, but less than ten thousand dollars; ten 775  
thousand dollars or more, but less than twenty-five thousand 776  
dollars; twenty-five thousand dollars or more, but less than fifty 777  
thousand dollars; fifty thousand dollars or more, but less than 778  
one hundred thousand dollars; and one hundred thousand dollars or 779  
more. Division (A)(2)(a) of this section shall not be construed to 780  
require a person filing the statement who derives income from a 781  
business or profession to disclose the individual items of income 782  
that constitute the gross income of that business or profession, 783  
except for those individual items of income that are attributable 784  
to the person's or, if the income is shared with the person, the 785  
partner's, solicitation of services or goods or performance, 786  
arrangement, or facilitation of services or provision of goods on 787  
behalf of the business or profession of clients, including 788  
corporate clients, who are legislative agents. A person who files 789  
the statement under this section shall disclose the identity of 790  
and the amount of income received from a person who the public 791  
official or employee knows or has reason to know is doing or 792

seeking to do business of any kind with the public official's or 793  
employee's agency. 794

(b) If the person filing the statement is a member of the 795  
general assembly, the statement shall identify every source of 796  
income and the amount of that income that was received from a 797  
legislative agent during the preceding calendar year, in the 798  
person's own name or by any other person for the person's use or 799  
benefit, by the person filing the statement, and a brief 800  
description of the nature of the services for which the income was 801  
received. Division (A)(2)(b) of this section requires the 802  
disclosure of clients of attorneys or persons licensed under 803  
section 4732.12 of the Revised Code, or patients of persons 804  
certified under section 4731.14 of the Revised Code, if those 805  
clients or patients are legislative agents. Division (A)(2)(b) of 806  
this section requires a person filing the statement who derives 807  
income from a business or profession to disclose those individual 808  
items of income that constitute the gross income of that business 809  
or profession that are received from legislative agents. 810

(c) Except as otherwise provided in division (A)(2)(c) of 811  
this section, division (A)(2)(a) of this section applies to 812  
attorneys, physicians, and other persons who engage in the 813  
practice of a profession and who, pursuant to a section of the 814  
Revised Code, the common law of this state, a code of ethics 815  
applicable to the profession, or otherwise, generally are required 816  
not to reveal, disclose, or use confidences of clients, patients, 817  
or other recipients of professional services except under 818  
specified circumstances or generally are required to maintain 819  
those types of confidences as privileged communications except 820  
under specified circumstances. Division (A)(2)(a) of this section 821  
does not require an attorney, physician, or other professional 822  
subject to a confidentiality requirement as described in division 823  
(A)(2)(c) of this section to disclose the name, other identity, or 824

address of a client, patient, or other recipient of professional 825  
services if the disclosure would threaten the client, patient, or 826  
other recipient of professional services, would reveal details of 827  
the subject matter for which legal, medical, or professional 828  
advice or other services were sought, or would reveal an otherwise 829  
privileged communication involving the client, patient, or other 830  
recipient of professional services. Division (A)(2)(a) of this 831  
section does not require an attorney, physician, or other 832  
professional subject to a confidentiality requirement as described 833  
in division (A)(2)(c) of this section to disclose in the brief 834  
description of the nature of services required by division 835  
(A)(2)(a) of this section any information pertaining to specific 836  
professional services rendered for a client, patient, or other 837  
recipient of professional services that would reveal details of 838  
the subject matter for which legal, medical, or professional 839  
advice was sought or would reveal an otherwise privileged 840  
communication involving the client, patient, or other recipient of 841  
professional services. 842

(3) The name of every corporation on file with the secretary 843  
of state that is incorporated in this state or holds a certificate 844  
of compliance authorizing it to do business in this state, trust, 845  
business trust, partnership, or association that transacts 846  
business in this state in which the person filing the statement or 847  
any other person for the person's use and benefit had during the 848  
preceding calendar year an investment of over one thousand dollars 849  
at fair market value as of the thirty-first day of December of the 850  
preceding calendar year, or the date of disposition, whichever is 851  
earlier, or in which the person holds any office or has a 852  
fiduciary relationship, and a description of the nature of the 853  
investment, office, or relationship. Division (A)(3) of this 854  
section does not require disclosure of the name of any bank, 855  
savings and loan association, credit union, or building and loan 856  
association with which the person filing the statement has a 857

deposit or a withdrawable share account. 858

(4) All fee simple and leasehold interests to which the 859  
person filing the statement holds legal title to or a beneficial 860  
interest in real property located within the state, excluding the 861  
person's residence and property used primarily for personal 862  
recreation; 863

(5) The names of all persons residing or transacting business 864  
in the state to whom the person filing the statement owes, in the 865  
person's own name or in the name of any other person, more than 866  
one thousand dollars. Division (A)(5) of this section shall not be 867  
construed to require the disclosure of debts owed by the person 868  
resulting from the ordinary conduct of a business or profession or 869  
debts on the person's residence or real property used primarily 870  
for personal recreation, except that the superintendent of 871  
financial institutions shall disclose the names of all 872  
state-chartered savings and loan associations and of all service 873  
corporations subject to regulation under division (E)(2) of 874  
section 1151.34 of the Revised Code to whom the superintendent in 875  
the superintendent's own name or in the name of any other person 876  
owes any money, and that the superintendent and any deputy 877  
superintendent of banks shall disclose the names of all 878  
state-chartered banks and all bank subsidiary corporations subject 879  
to regulation under section 1109.44 of the Revised Code to whom 880  
the superintendent or deputy superintendent owes any money. 881

(6) The names of all persons residing or transacting business 882  
in the state, other than a depository excluded under division 883  
(A)(3) of this section, who owe more than one thousand dollars to 884  
the person filing the statement, either in the person's own name 885  
or to any person for the person's use or benefit. Division (A)(6) 886  
of this section shall not be construed to require the disclosure 887  
of clients of attorneys or persons licensed under section 4732.12 888  
or 4732.15 of the Revised Code, or patients of persons certified 889

under section 4731.14 of the Revised Code, nor the disclosure of 890  
debts owed to the person resulting from the ordinary conduct of a 891  
business or profession. 892

(7) Except as otherwise provided in section 102.022 of the 893  
Revised Code, the source of each gift of over seventy-five 894  
dollars, or of each gift of over twenty-five dollars received by a 895  
member of the general assembly from a legislative agent, received 896  
by the person in the person's own name or by any other person for 897  
the person's use or benefit during the preceding calendar year, 898  
except gifts received by will or by virtue of section 2105.06 of 899  
the Revised Code, or received from spouses, parents, grandparents, 900  
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 901  
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 902  
fathers-in-law, mothers-in-law, or any person to whom the person 903  
filing the statement stands in loco parentis, or received by way 904  
of distribution from any inter vivos or testamentary trust 905  
established by a spouse or by an ancestor; 906

(8) Except as otherwise provided in section 102.022 of the 907  
Revised Code, identification of the source and amount of every 908  
payment of expenses incurred for travel to destinations inside or 909  
outside this state that is received by the person in the person's 910  
own name or by any other person for the person's use or benefit 911  
and that is incurred in connection with the person's official 912  
duties, except for expenses for travel to meetings or conventions 913  
of a national or state organization to which any state agency, 914  
including, but not limited to, any legislative agency or state 915  
institution of higher education as defined in section 3345.011 of 916  
the Revised Code, pays membership dues, or any political 917  
subdivision or any office or agency of a political subdivision 918  
pays membership dues; 919

(9) Except as otherwise provided in section 102.022 of the 920  
Revised Code, identification of the source of payment of expenses 921

for meals and other food and beverages, other than for meals and 922  
other food and beverages provided at a meeting at which the person 923  
participated in a panel, seminar, or speaking engagement or at a 924  
meeting or convention of a national or state organization to which 925  
any state agency, including, but not limited to, any legislative 926  
agency or state institution of higher education as defined in 927  
section 3345.011 of the Revised Code, pays membership dues, or any 928  
political subdivision or any office or agency of a political 929  
subdivision pays membership dues, that are incurred in connection 930  
with the person's official duties and that exceed one hundred 931  
dollars aggregated per calendar year; 932

(10) If the disclosure statement is filed by a public 933  
official or employee described in division (B)(2) of section 934  
101.73 of the Revised Code or division (B)(2) of section 121.63 of 935  
the Revised Code who receives a statement from a legislative 936  
agent, executive agency lobbyist, or employer that contains the 937  
information described in division (F)(2) of section 101.73 of the 938  
Revised Code or division (G)(2) of section 121.63 of the Revised 939  
Code, all of the nondisputed information contained in the 940  
statement delivered to that public official or employee by the 941  
legislative agent, executive agency lobbyist, or employer under 942  
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 943  
the Revised Code. 944

A person may file a statement required by this section in 945  
person or by mail. A person who is a candidate for elective office 946  
shall file the statement no later than the thirtieth day before 947  
the primary, special, or general election at which the candidacy 948  
is to be voted on, whichever election occurs soonest, except that 949  
a person who is a write-in candidate shall file the statement no 950  
later than the twentieth day before the earliest election at which 951  
the person's candidacy is to be voted on. A person who holds 952  
elective office shall file the statement on or before the 953

fifteenth day of April of each year unless the person is a 954  
candidate for office. A person who is appointed to fill a vacancy 955  
for an unexpired term in an elective office shall file the 956  
statement within fifteen days after the person qualifies for 957  
office. Other persons shall file an annual statement on or before 958  
the fifteenth day of April or, if appointed or employed after that 959  
date, within ninety days after appointment or employment. No 960  
person shall be required to file with the appropriate ethics 961  
commission more than one statement or pay more than one filing fee 962  
for any one calendar year. 963

The appropriate ethics commission, for good cause, may extend 964  
for a reasonable time the deadline for filing a statement under 965  
this section. 966

A statement filed under this section is subject to public 967  
inspection at locations designated by the appropriate ethics 968  
commission except as otherwise provided in this section. 969

(B) The Ohio ethics commission, the joint legislative ethics 970  
committee, and the board of commissioners on grievances and 971  
discipline of the supreme court, using the rule-making procedures 972  
of Chapter 119. of the Revised Code, may require any class of 973  
public officials or employees under its jurisdiction and not 974  
specifically excluded by this section whose positions involve a 975  
substantial and material exercise of administrative discretion in 976  
the formulation of public policy, expenditure of public funds, 977  
enforcement of laws and rules of the state or a county or city, or 978  
the execution of other public trusts, to file an annual statement 979  
on or before the fifteenth day of April under division (A) of this 980  
section. The appropriate ethics commission shall send the public 981  
officials or employees written notice of the requirement by the 982  
fifteenth day of February of each year the filing is required 983  
unless the public official or employee is appointed after that 984  
date, in which case the notice shall be sent within thirty days 985

after appointment, and the filing shall be made not later than 986  
ninety days after appointment. 987

Except for disclosure statements filed by members of the 988  
board of trustees and the executive director of the southern Ohio 989  
agricultural and community development foundation, disclosure 990  
statements filed under this division with the Ohio ethics 991  
commission by members of boards, commissions, or bureaus of the 992  
state for which no compensation is received other than reasonable 993  
and necessary expenses shall be kept confidential. Disclosure 994  
statements filed with the Ohio ethics commission under division 995  
(A) of this section by business managers, treasurers, and 996  
superintendents of city, local, exempted village, joint 997  
vocational, or cooperative education school districts or 998  
educational service centers shall be kept confidential, except 999  
that any person conducting an audit of any such school district or 1000  
educational service center pursuant to section 115.56 or Chapter 1001  
117. of the Revised Code may examine the disclosure statement of 1002  
any business manager, treasurer, or superintendent of that school 1003  
district or educational service center. Disclosure statements 1004  
filed with the Ohio ethics commission under division (A) of this 1005  
section by the individuals set forth in division (B)(2) of section 1006  
187.03 of the Revised Code shall be kept confidential. The Ohio 1007  
ethics commission shall examine each disclosure statement required 1008  
to be kept confidential to determine whether a potential conflict 1009  
of interest exists for the person who filed the disclosure 1010  
statement. A potential conflict of interest exists if the private 1011  
interests of the person, as indicated by the person's disclosure 1012  
statement, might interfere with the public interests the person is 1013  
required to serve in the exercise of the person's authority and 1014  
duties in the person's office or position of employment. If the 1015  
commission determines that a potential conflict of interest 1016  
exists, it shall notify the person who filed the disclosure 1017  
statement and shall make the portions of the disclosure statement 1018

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

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

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

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

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

For state office, except member of the		1040
state board of education	\$95	1041
For office of member of general assembly	\$40	1042
For county office	\$60	1043
For city office	\$35	1044
<u>For township office</u>	<u>\$35</u>	1045
For office of member of the state board		1046
of education	<del>\$25</del> <u>\$35</u>	1047
<del>For office of member of the Ohio</del>		1048
<del>livestock care standards board</del>	<del>\$. . . . .</del>	1049

For office of member of a city, local,	1050
exempted village, or cooperative	1051
education board of	1052
education or educational service	1053
center governing board	\$30 1054
For position of business manager,	1055
treasurer, or superintendent of a	1056
city, local, exempted village, joint	1057
vocational, or cooperative education	1058
school district or	1059
educational service center	\$30 1060
(3) No judge of a court of record or candidate for judge of a	1061
court of record, and no referee or magistrate serving a court of	1062
record, shall be required to pay the fee required under division	1063
(E)(1) or (2) or (F) of this section.	1064
(4) For any public official who is appointed to a nonelective	1065
office of the state and for any employee who holds a nonelective	1066
position in a public agency of the state, the state agency that is	1067
the primary employer of the state official or employee shall pay	1068
the fee required under division (E)(1) or (F) of this section.	1069
(F) If a statement required to be filed under this section is	1070
not filed by the date on which it is required to be filed, the	1071
appropriate ethics commission shall assess the person required to	1072
file the statement a late filing fee of ten dollars for each day	1073
the statement is not filed, except that the total amount of the	1074
late filing fee shall not exceed two hundred fifty dollars.	1075
(G)(1) The appropriate ethics commission other than the Ohio	1076
ethics commission and the joint legislative ethics committee shall	1077
deposit all fees it receives under divisions (E) and (F) of this	1078
section into the general revenue fund of the state.	1079
(2) The Ohio ethics commission shall deposit all receipts,	1080
including, but not limited to, fees it receives under divisions	1081

(E) and (F) of this section, investigative or other fees, costs, 1082  
or other funds it receives as a result of court orders, and all 1083  
moneys it receives from settlements under division (G) of section 1084  
102.06 of the Revised Code, into the Ohio ethics commission fund, 1085  
which is hereby created in the state treasury. All moneys credited 1086  
to the fund shall be used solely for expenses related to the 1087  
operation and statutory functions of the commission. 1088

(3) The joint legislative ethics committee shall deposit all 1089  
receipts it receives from the payment of financial disclosure 1090  
statement filing fees under divisions (E) and (F) of this section 1091  
into the joint legislative ethics committee investigative fund. 1092

(H) Division (A) of this section does not apply to a person 1093  
elected or appointed to the office of precinct, ward, or district 1094  
committee member under Chapter 3517. of the Revised Code; a 1095  
presidential elector; a delegate to a national convention; village 1096  
~~or township~~ officials and employees; township officials of a 1097  
township with a population of less than five thousand, as 1098  
determined by the most recent decennial census; all township 1099  
employees; any physician or psychiatrist who is paid a salary or 1100  
wage in accordance with schedule C of section 124.15 or schedule 1101  
E-2 of section 124.152 of the Revised Code and whose primary 1102  
duties do not require the exercise of administrative discretion; 1103  
or any member of a board, commission, or bureau of any county or 1104  
city who receives less than one thousand dollars per year for 1105  
serving in that position. 1106

**Sec. 103.05.** (A) The director of the legislative service 1107  
commission shall be the codifier of the rules of the 1108  
administrative agencies of the state. When a rule is filed under 1109  
section 111.15, 119.04, 4141.14, or 5703.14 of the Revised Code, 1110  
the director or the director's designee shall examine the rule. If 1111  
the rule is not numbered or if the numbering of the rule is not in 1112

conformity with the system established by the director, the 1113  
director shall give the rule its proper number by designating the 1114  
proper number on the left hand margin of the rule. The number 1115  
shall be the official administrative code number of the rule. Any 1116  
number so assigned shall be published in any publication of the 1117  
administrative code. Rules of the administrative code shall be 1118  
cited and referred to by such official numbers. 1119

The legislative service commission shall, pursuant to section 1120  
111.15 of the Revised Code, adopt, amend, and rescind any rules 1121  
that are necessary to provide a uniform administrative code; to 1122  
provide standards for use by the director in determining whether 1123  
to include in the administrative code the full text of, or a 1124  
reference to, any rule filed with the commission; to permit the 1125  
director to discharge the director's duties and exercise the 1126  
director's powers as described in this section; and to permit the 1127  
director to discharge the director's duties and exercise the 1128  
director's powers with respect to establishing and maintaining, 1129  
and enhancing and improving, the electronic rule-filing system 1130  
under section 103.0511 of the Revised Code. 1131

When the commission adopts rules to provide standards for use 1132  
by the director in determining whether to include the full text 1133  
of, or a reference to, a rule in the administrative code, it shall 1134  
consider all of the following: 1135

(1) Whether the rule applies uniformly to all citizens of the 1136  
state; 1137

(2) Whether the rule applies uniformly to all political 1138  
subdivisions of the state; 1139

(3) Whether the rule affects the health, welfare, and safety 1140  
of the citizens of the state; 1141

(4) Whether the rule applies only to the internal affairs of 1142  
the agency adopting the rule; 1143

(5) The number of persons affected by the rule;	1144
(6) Whether the rule affects the statutory or constitutional rights of any person.	1145 1146
The director or the director's designee shall accept any rule that is filed under section 111.15, 119.04, 4141.14, or 5703.14 of the Revised Code. If the director or the director's designee accepts a rule that is not in compliance with the rules of the commission, the director shall give notice of the noncompliance in electronic form to the agency that filed the rule within thirty days after the date on which the rule is filed. The notice shall indicate why the rule does not comply with the rules of the commission and how the rule can be brought into compliance. The failure of the director to give an agency notice within the thirty-day period shall presumptively establish that the rule complies with the rules of the commission.	1147 1148 1149 1150 1151 1152 1153 1154 1155 1156 1157 1158
(B) <u>Any person may publish an acceptable code.</u> The director shall approve as acceptable any <u>person's</u> publication of the code conforming to the requirements of this division.	1159 1160 1161
An Ohio administrative code approved as acceptable by the director shall:	1162 1163
(1) Contain a compilation of the full text of, or a reference to, each rule filed under sections 111.15, 119.04, 4141.14, and 5703.14 of the Revised Code;	1164 1165 1166
(2) Presumptively establish the rules of all agencies adopting rules under section 111.15, 4141.14, 5703.14, or Chapter 119. of the Revised Code that are in effect on the day of its initial publication;	1167 1168 1169 1170
(3) Contain the full text of, or a reference to, each rule adopted after its initial publication and be updated at least quarterly;	1171 1172 1173

(4) Contain an index of the rules and references to rules 1174  
that are included in the code and each supplement using terms 1175  
easily understood by the general public; 1176

(5) Be published in electronic or print format following, to 1177  
the extent possible, the subject matter arrangement of the Revised 1178  
Code; 1179

(6) Be numbered according to the numbering system devised by 1180  
the director. 1181

~~(C) If the director does not approve as acceptable any 1182  
publication of the administrative code, the The director, subject 1183  
to division (D) of this section, may prepare and publish the code, 1184  
or contract with any person under this division to prepare and 1185  
publish the code. Any code published under this division shall 1186  
include all of the requirements of division (B) of this section. 1187  
In addition, the director shall furnish any code or supplement 1188  
published under this division to any person who requests the code 1189  
or supplement upon payment of a charge established by the 1190  
director, not to exceed the cost of preparation and publication. 1191~~

Upon the request of the director of the legislative service 1192  
commission under this division, the director of administrative 1193  
services, in accordance with the competitive selection procedure 1194  
of Chapter 125. of the Revised Code, shall let a contract for the 1195  
compilation, preparation, and printing or publication of the 1196  
administrative code and supplements. 1197

~~(D) The director shall not prepare and publish the 1198  
administrative code in a print mode or any other mode under 1199  
division (B) or (C) of this section unless no other person is 1200  
willing and qualified to publish a version of the code in that 1201  
mode that the director has approved as acceptable. 1202~~

**Sec. 105.41.** (A) There is hereby created in the legislative 1203

branch of government the capitol square review and advisory board, 1204  
consisting of ~~thirteen~~ twelve members as follows: 1205

(1) Two members of the senate, appointed by the president of 1206  
the senate, both of whom shall not be members of the same 1207  
political party; 1208

(2) Two members of the house of representatives, appointed by 1209  
the speaker of the house of representatives, both of whom shall 1210  
not be members of the same political party; 1211

(3) ~~Five~~ Four members appointed by the governor, with the 1212  
advice and consent of the senate, not more than three of whom 1213  
shall be members of the same political party, one of whom shall be 1214  
the chief of staff of the governor's office, one of whom shall 1215  
represent the Ohio arts council, one of whom shall represent the 1216  
Ohio historical society, ~~one of whom shall represent the Ohio~~ 1217  
~~building authority,~~ and one of whom shall represent the public at 1218  
large; 1219

(4) One member, who shall be a former president of the 1220  
senate, appointed by the current president of the senate. If the 1221  
current president of the senate, in the current president's 1222  
discretion, decides for any reason not to make the appointment or 1223  
if no person is eligible or available to serve, the seat shall 1224  
remain vacant. 1225

(5) One member, who shall be a former speaker of the house of 1226  
representatives, appointed by the current speaker of the house of 1227  
representatives. If the current speaker of the house of 1228  
representatives, in the current speaker's discretion, decides for 1229  
any reason not to make the appointment or if no person is eligible 1230  
or available to serve, the seat shall remain vacant. 1231

(6) The clerk of the senate and the clerk of the house of 1232  
representatives. 1233

(B) Terms of office of each appointed member of the board 1234

shall be for three years, except that members of the general 1235  
assembly appointed to the board shall be members of the board only 1236  
so long as they are members of the general assembly and the chief 1237  
of staff of the governor's office shall be a member of the board 1238  
only so long as the appointing governor remains in office. Each 1239  
member shall hold office from the date of the member's appointment 1240  
until the end of the term for which the member was appointed. In 1241  
case of a vacancy occurring on the board, the president of the 1242  
senate, the speaker of the house of representatives, or the 1243  
governor, as the case may be, shall in the same manner prescribed 1244  
for the regular appointment to the commission, fill the vacancy by 1245  
appointing a member. Any member appointed to fill a vacancy 1246  
occurring prior to the expiration of the term for which the 1247  
member's predecessor was appointed shall hold office for the 1248  
remainder of the term. Any appointed member shall continue in 1249  
office subsequent to the expiration date of the member's term 1250  
until the member's successor takes office, or until a period of 1251  
sixty days has elapsed, whichever occurs first. 1252

(C) The board shall hold meetings in a manner and at times 1253  
prescribed by the rules adopted by the board. A majority of the 1254  
board constitutes a quorum, and no action shall be taken by the 1255  
board unless approved by at least six members or by at least seven 1256  
members if a person is appointed under division (A)(4) or (5) of 1257  
this section. At its first meeting, the board shall adopt rules 1258  
for the conduct of its business and the election of its officers, 1259  
and shall organize by selecting a chairperson and other officers 1260  
as it considers necessary. Board members shall serve without 1261  
compensation but shall be reimbursed for actual and necessary 1262  
expenses incurred in the performance of their duties. 1263

(D) The board may do any of the following: 1264

(1) Employ or hire on a consulting basis professional, 1265  
technical, and clerical employees as are necessary for the 1266

performance of its duties. All employees of the board are in the 1267  
unclassified service and serve at the pleasure of the board. For 1268  
purposes of section 4117.01 of the Revised Code, employees of the 1269  
board shall be considered employees of the general assembly, 1270  
except that employees who are covered by a collective bargaining 1271  
agreement on ~~the effective date of this amendment~~ September 29, 1272  
2011, shall remain subject to the agreement until the agreement 1273  
expires on its terms, and the agreement shall not be extended or 1274  
renewed. Upon expiration of the agreement, the employees are 1275  
considered employees of the general assembly for purposes of 1276  
section 4117.01 of the Revised Code and are in the unclassified 1277  
service and serve at the pleasure of the board. 1278

(2) Hold public hearings at times and places as determined by 1279  
the board; 1280

(3) Adopt, amend, or rescind rules necessary to accomplish 1281  
the duties of the board as set forth in this section; 1282

(4) Sponsor, conduct, and support such social events as the 1283  
board may authorize and consider appropriate for the employees of 1284  
the board, employees and members of the general assembly, 1285  
employees of persons under contract with the board or otherwise 1286  
engaged to perform services on the premises of capitol square, or 1287  
other persons as the board may consider appropriate. Subject to 1288  
the requirements of Chapter 4303. of the Revised Code, the board 1289  
may provide beer, wine, and intoxicating liquor, with or without 1290  
charge, for those events and may use funds only from the sale of 1291  
goods and services fund to purchase the beer, wine, and 1292  
intoxicating liquor the board provides; 1293

(5) Purchase a warehouse in which to store items of the 1294  
capitol collection trust and, whenever necessary, equipment or 1295  
other property of the board. 1296

(E) The board shall do all of the following: 1297

(1) Have sole authority to coordinate and approve any 1298  
improvements, additions, and renovations that are made to the 1299  
capitol square. The improvements shall include, but not be limited 1300  
to, the placement of monuments and sculpture on the capitol 1301  
grounds. 1302

(2) Subject to section 3353.07 of the Revised Code, operate 1303  
the capitol square, and have sole authority to regulate all uses 1304  
of the capitol square. The uses shall include, but not be limited 1305  
to, the casual and recreational use of the capitol square. 1306

(3) Employ, fix the compensation of, and prescribe the duties 1307  
of the executive director of the board and other employees the 1308  
board considers necessary for the performance of its powers and 1309  
duties; 1310

(4) Establish and maintain the capitol collection trust. The 1311  
capitol collection trust shall consist of furniture, antiques, and 1312  
other items of personal property that the board shall store in 1313  
suitable facilities until they are ready to be displayed in the 1314  
capitol square. 1315

(5) Perform repair, construction, contracting, purchasing, 1316  
maintenance, supervisory, and operating activities the board 1317  
determines are necessary for the operation and maintenance of the 1318  
capitol square; 1319

(6) Maintain and preserve the capitol square, in accordance 1320  
with guidelines issued by the United States secretary of the 1321  
interior for application of the secretary's standards for 1322  
rehabilitation adopted in 36 C.F.R. part 67; 1323

(7) Plan and develop a center at the capitol building for the 1324  
purpose of educating visitors about the history of Ohio, including 1325  
its political, economic, and social development and the design and 1326  
erection of the capitol building and its grounds. 1327

(F)(1) The board shall lease capital facilities improved or 1328

financed by the Ohio building authority pursuant to Chapter 152. 1329  
of the Revised Code for the use of the board, and may enter into 1330  
any other agreements with the authority ancillary to improvement, 1331  
financing, or leasing of those capital facilities, including, but 1332  
not limited to, any agreement required by the applicable bond 1333  
proceedings authorized by Chapter 152. of the Revised Code. Any 1334  
lease of capital facilities authorized by this section shall be 1335  
governed by division (D) of section 152.24 of the Revised Code. 1336

(2) Fees, receipts, and revenues received by the board from 1337  
the state underground parking garage constitute available receipts 1338  
as defined in section 152.09 of the Revised Code, and may be 1339  
pledged to the payment of bond service charges on obligations 1340  
issued by the Ohio building authority pursuant to Chapter 152. of 1341  
the Revised Code to improve, finance, or purchase capital 1342  
facilities useful to the board. The authority may, with the 1343  
consent of the board, provide in the bond proceedings for a pledge 1344  
of all or a portion of those fees, receipts, and revenues as the 1345  
authority determines. The authority may provide in the bond 1346  
proceedings or by separate agreement with the board for the 1347  
transfer of those fees, receipts, and revenues to the appropriate 1348  
bond service fund or bond service reserve fund as required to pay 1349  
the bond service charges when due, and any such provision for the 1350  
transfer of those fees, receipts, and revenues shall be 1351  
controlling notwithstanding any other provision of law pertaining 1352  
to those fees, receipts, and revenues. 1353

(3) All moneys received by the treasurer of state on account 1354  
of the board and required by the applicable bond proceedings or by 1355  
separate agreement with the board to be deposited, transferred, or 1356  
credited to the bond service fund or bond service reserve fund 1357  
established by the bond proceedings shall be transferred by the 1358  
treasurer of state to such fund, whether or not it is in the 1359  
custody of the treasurer of state, without necessity for further 1360

appropriation, upon receipt of notice from the Ohio building 1361  
authority as prescribed in the bond proceedings. 1362

(G) All (1) Except as otherwise provided in division (G)(2) 1363  
of this section, all fees, receipts, and revenues received by the 1364  
board from the state underground parking garage shall be deposited 1365  
into the state treasury to the credit of the underground parking 1366  
garage operating fund, which is hereby created, to be used for the 1367  
purposes specified in division (F) of this section and for the 1368  
operation and maintenance of the garage. All investment earnings 1369  
of the fund shall be credited to the fund. 1370

(2) There is hereby created the parking garage automated 1371  
equipment fund, which shall be in the custody of the treasurer of 1372  
state but shall not be part of the state treasury. Money in the 1373  
fund shall be used to purchase the automated teller machine 1374  
quality dollar bills needed for operation of the parking garage 1375  
automated equipment. The fund shall consist of fees, receipts, or 1376  
revenues received by the board from the state underground parking 1377  
garage; provided, however, that the total amount deposited into 1378  
the fund at any one time shall not exceed ten thousand dollars. 1379  
All investment earnings of the fund shall be credited to the fund. 1380

(H) All donations received by the board shall be deposited 1381  
into the state treasury to the credit of the capitol square 1382  
renovation gift fund, which is hereby created. The fund shall be 1383  
used by the board as follows: 1384

(1) To provide part or all of the funding related to 1385  
construction, goods, or services for the renovation of the capitol 1386  
square; 1387

(2) To purchase art, antiques, and artifacts for display at 1388  
the capitol square; 1389

(3) To award contracts or make grants to organizations for 1390  
educating the public regarding the historical background and 1391

governmental functions of the capitol square. Chapters 125., 127., 1392  
and 153. and section 3517.13 of the Revised Code do not apply to 1393  
purchases made exclusively from the fund, notwithstanding anything 1394  
to the contrary in those chapters or that section. All investment 1395  
earnings of the fund shall be credited to the fund. 1396

(I) Except as provided in divisions (G), (H), and (J) of this 1397  
section, all fees, receipts, and revenues received by the board 1398  
shall be deposited into the state treasury to the credit of the 1399  
sale of goods and services fund, which is hereby created. Money 1400  
credited to the fund shall be used solely to pay costs of the 1401  
board other than those specified in divisions (F) and (G) of this 1402  
section. All investment earnings of the fund shall be credited to 1403  
the fund. 1404

(J) There is hereby created in the state treasury the capitol 1405  
square improvement fund, to be used by the board to pay 1406  
construction, renovation, and other costs related to the capitol 1407  
square for which money is not otherwise available to the board. 1408  
Whenever the board determines that there is a need to incur those 1409  
costs and that the unencumbered, unobligated balance to the credit 1410  
of the underground parking garage operating fund exceeds the 1411  
amount needed for the purposes specified in division (F) of this 1412  
section and for the operation and maintenance of the garage, the 1413  
board may request the director of budget and management to 1414  
transfer from the underground parking garage operating fund to the 1415  
capitol square improvement fund the amount needed to pay such 1416  
construction, renovation, or other costs. The director then shall 1417  
transfer the amount needed from the excess balance of the 1418  
underground parking garage operating fund. 1419

(K) As the operation and maintenance of the capitol square 1420  
constitute essential government functions of a public purpose, the 1421  
board shall not be required to pay taxes or assessments upon the 1422  
square, upon any property acquired or used by the board under this 1423

section, or upon any income generated by the operation of the 1424  
square. 1425

(L) As used in this section, "capitol square" means the 1426  
capitol building, senate building, capitol atrium, capitol 1427  
grounds, the state underground parking garage, and the warehouse 1428  
owned by the board. 1429

(M) The capitol annex shall be known as the senate building. 1430

**Sec. 107.54.** (A)(1) When the common sense initiative office 1431  
receives a draft rule and business impact analysis from an agency, 1432  
the office shall evaluate the draft rule and analysis against the 1433  
business impact analysis instrument and any other relevant 1434  
criteria, and may prepare and transmit recommendations to the 1435  
agency on how the draft rule might be revised to eliminate or 1436  
reduce any adverse impact the draft rule might have on businesses. 1437

(2) When the office receives a rule and business impact 1438  
analysis from an agency under division (A)(2) of section 119.033 1439  
of the Revised Code, the office shall evaluate the rule and 1440  
analysis against the business impact analysis instrument and any 1441  
other relevant criteria, and may prepare and transmit 1442  
recommendations to the agency on how the rule might be amended or 1443  
rescinded to eliminate or reduce any adverse impact the rule has 1444  
on businesses. 1445

(B) The office shall transmit any such recommendations 1446  
electronically to the agency. If the office fails to make such a 1447  
transmission after receiving the draft rule and business impact 1448  
analysis, it is as if the office had elected not to make any 1449  
recommendations. 1450

**Sec. 109.33.** The attorney general may appoint, with salaries 1451  
fixed pursuant to section 124.15 or 124.152 of the Revised Code, 1452  
such assistants and may employ such stenographers and clerks as 1453

may be necessary to carry out sections 109.23 to 109.33 of the Revised Code. The attorney general may also employ or contract experts for assistance in any specific matter at a reasonable rate of compensation.

**Sec. 109.57.** (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to

the superintendent of the bureau. Fingerprints, photographs, or 1486  
other descriptive information of a child who is under eighteen 1487  
years of age, has not been arrested or otherwise taken into 1488  
custody for committing an act that would be a felony or an offense 1489  
of violence who is not in any other category of child specified in 1490  
this division, if committed by an adult, has not been adjudicated 1491  
a delinquent child for committing an act that would be a felony or 1492  
an offense of violence if committed by an adult, has not been 1493  
convicted of or pleaded guilty to committing a felony or an 1494  
offense of violence, and is not a child with respect to whom there 1495  
is probable cause to believe that the child may have committed an 1496  
act that would be a felony or an offense of violence if committed 1497  
by an adult shall not be procured by the superintendent or 1498  
furnished by any person in charge of any county, multicounty, 1499  
municipal, municipal-county, or multicounty-municipal jail or 1500  
workhouse, community-based correctional facility, halfway house, 1501  
alternative residential facility, or state correctional 1502  
institution, except as authorized in section 2151.313 of the 1503  
Revised Code. 1504

(2) Every clerk of a court of record in this state, other 1505  
than the supreme court or a court of appeals, shall send to the 1506  
superintendent of the bureau a weekly report containing a summary 1507  
of each case involving a felony, involving any crime constituting 1508  
a misdemeanor on the first offense and a felony on subsequent 1509  
offenses, involving a misdemeanor described in division (A)(1)(a), 1510  
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1511  
Code, or involving an adjudication in a case in which a child 1512  
under eighteen years of age was alleged to be a delinquent child 1513  
for committing an act that would be a felony or an offense of 1514  
violence if committed by an adult. The clerk of the court of 1515  
common pleas shall include in the report and summary the clerk 1516  
sends under this division all information described in divisions 1517  
(A)(2)(a) to (f) of this section regarding a case before the court 1518

of appeals that is served by that clerk. The summary shall be 1519  
written on the standard forms furnished by the superintendent 1520  
pursuant to division (B) of this section and shall include the 1521  
following information: 1522

(a) The incident tracking number contained on the standard 1523  
forms furnished by the superintendent pursuant to division (B) of 1524  
this section; 1525

(b) The style and number of the case; 1526

(c) The date of arrest, offense, summons, or arraignment; 1527

(d) The date that the person was convicted of or pleaded 1528  
guilty to the offense, adjudicated a delinquent child for 1529  
committing the act that would be a felony or an offense of 1530  
violence if committed by an adult, found not guilty of the 1531  
offense, or found not to be a delinquent child for committing an 1532  
act that would be a felony or an offense of violence if committed 1533  
by an adult, the date of an entry dismissing the charge, an entry 1534  
declaring a mistrial of the offense in which the person is 1535  
discharged, an entry finding that the person or child is not 1536  
competent to stand trial, or an entry of a nolle prosequi, or the 1537  
date of any other determination that constitutes final resolution 1538  
of the case; 1539

(e) A statement of the original charge with the section of 1540  
the Revised Code that was alleged to be violated; 1541

(f) If the person or child was convicted, pleaded guilty, or 1542  
was adjudicated a delinquent child, the sentence or terms of 1543  
probation imposed or any other disposition of the offender or the 1544  
delinquent child. 1545

If the offense involved the disarming of a law enforcement 1546  
officer or an attempt to disarm a law enforcement officer, the 1547  
clerk shall clearly state that fact in the summary, and the 1548  
superintendent shall ensure that a clear statement of that fact is 1549

placed in the bureau's records. 1550

(3) The superintendent shall cooperate with and assist 1551  
sheriffs, chiefs of police, and other law enforcement officers in 1552  
the establishment of a complete system of criminal identification 1553  
and in obtaining fingerprints and other means of identification of 1554  
all persons arrested on a charge of a felony, any crime 1555  
constituting a misdemeanor on the first offense and a felony on 1556  
subsequent offenses, or a misdemeanor described in division 1557  
(A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of 1558  
the Revised Code and of all children under eighteen years of age 1559  
arrested or otherwise taken into custody for committing an act 1560  
that would be a felony or an offense of violence if committed by 1561  
an adult. The superintendent also shall file for record the 1562  
fingerprint impressions of all persons confined in a county, 1563  
multicounty, municipal, municipal-county, or multicounty-municipal 1564  
jail or workhouse, community-based correctional facility, halfway 1565  
house, alternative residential facility, or state correctional 1566  
institution for the violation of state laws and of all children 1567  
under eighteen years of age who are confined in a county, 1568  
multicounty, municipal, municipal-county, or multicounty-municipal 1569  
jail or workhouse, community-based correctional facility, halfway 1570  
house, alternative residential facility, or state correctional 1571  
institution or in any facility for delinquent children for 1572  
committing an act that would be a felony or an offense of violence 1573  
if committed by an adult, and any other information that the 1574  
superintendent may receive from law enforcement officials of the 1575  
state and its political subdivisions. 1576

(4) The superintendent shall carry out Chapter 2950. of the 1577  
Revised Code with respect to the registration of persons who are 1578  
convicted of or plead guilty to a sexually oriented offense or a 1579  
child-victim oriented offense and with respect to all other duties 1580  
imposed on the bureau under that chapter. 1581

(5) The bureau shall perform centralized recordkeeping 1582  
functions for criminal history records and services in this state 1583  
for purposes of the national crime prevention and privacy compact 1584  
set forth in section 109.571 of the Revised Code and is the 1585  
criminal history record repository as defined in that section for 1586  
purposes of that compact. The superintendent or the 1587  
superintendent's designee is the compact officer for purposes of 1588  
that compact and shall carry out the responsibilities of the 1589  
compact officer specified in that compact. 1590

(B) The superintendent shall prepare and furnish to every 1591  
county, multicounty, municipal, municipal-county, or 1592  
multicounty-municipal jail or workhouse, community-based 1593  
correctional facility, halfway house, alternative residential 1594  
facility, or state correctional institution and to every clerk of 1595  
a court in this state specified in division (A)(2) of this section 1596  
standard forms for reporting the information required under 1597  
division (A) of this section. The standard forms that the 1598  
superintendent prepares pursuant to this division may be in a 1599  
tangible format, in an electronic format, or in both tangible 1600  
formats and electronic formats. 1601

(C)(1) The superintendent may operate a center for 1602  
electronic, automated, or other data processing for the storage 1603  
and retrieval of information, data, and statistics pertaining to 1604  
criminals and to children under eighteen years of age who are 1605  
adjudicated delinquent children for committing an act that would 1606  
be a felony or an offense of violence if committed by an adult, 1607  
criminal activity, crime prevention, law enforcement, and criminal 1608  
justice, and may establish and operate a statewide communications 1609  
network to be known as the Ohio law enforcement gateway to gather 1610  
and disseminate information, data, and statistics for the use of 1611  
law enforcement agencies and for other uses specified in this 1612  
division. The superintendent may gather, store, retrieve, and 1613

disseminate information, data, and statistics that pertain to 1614  
children who are under eighteen years of age and that are gathered 1615  
pursuant to sections 109.57 to 109.61 of the Revised Code together 1616  
with information, data, and statistics that pertain to adults and 1617  
that are gathered pursuant to those sections. 1618

(2) The superintendent or the superintendent's designee shall 1619  
gather information of the nature described in division (C)(1) of 1620  
this section that pertains to the offense and delinquency history 1621  
of a person who has been convicted of, pleaded guilty to, or been 1622  
adjudicated a delinquent child for committing a sexually oriented 1623  
offense or a child-victim oriented offense for inclusion in the 1624  
state registry of sex offenders and child-victim offenders 1625  
maintained pursuant to division (A)(1) of section 2950.13 of the 1626  
Revised Code and in the internet database operated pursuant to 1627  
division (A)(13) of that section and for possible inclusion in the 1628  
internet database operated pursuant to division (A)(11) of that 1629  
section. 1630

(3) In addition to any other authorized use of information, 1631  
data, and statistics of the nature described in division (C)(1) of 1632  
this section, the superintendent or the superintendent's designee 1633  
may provide and exchange the information, data, and statistics 1634  
pursuant to the national crime prevention and privacy compact as 1635  
described in division (A)(5) of this section. 1636

(4) The attorney general may adopt rules under Chapter 119. 1637  
of the Revised Code establishing guidelines for the operation of 1638  
and participation in the Ohio law enforcement gateway. The rules 1639  
may include criteria for granting and restricting access to 1640  
information gathered and disseminated through the Ohio law 1641  
enforcement gateway. The attorney general shall permit the state 1642  
medical board and board of nursing to access and view, but not 1643  
alter, information gathered and disseminated through the Ohio law 1644  
enforcement gateway. 1645

The attorney general may appoint a steering committee to 1646  
advise the attorney general in the operation of the Ohio law 1647  
enforcement gateway that is comprised of persons who are 1648  
representatives of the criminal justice agencies in this state 1649  
that use the Ohio law enforcement gateway and is chaired by the 1650  
superintendent or the superintendent's designee. 1651

(D)(1) The following are not public records under section 1652  
149.43 of the Revised Code: 1653

(a) Information and materials furnished to the superintendent 1654  
pursuant to division (A) of this section; 1655

(b) Information, data, and statistics gathered or 1656  
disseminated through the Ohio law enforcement gateway pursuant to 1657  
division (C)(1) of this section; 1658

(c) Information and materials furnished to any board or 1659  
person under division (F) or (G) of this section. 1660

(2) The superintendent or the superintendent's designee shall 1661  
gather and retain information so furnished under division (A) of 1662  
this section that pertains to the offense and delinquency history 1663  
of a person who has been convicted of, pleaded guilty to, or been 1664  
adjudicated a delinquent child for committing a sexually oriented 1665  
offense or a child-victim oriented offense for the purposes 1666  
described in division (C)(2) of this section. 1667

(E) The attorney general shall adopt rules, in accordance 1668  
with Chapter 119. of the Revised Code, setting forth the procedure 1669  
by which a person may receive or release information gathered by 1670  
the superintendent pursuant to division (A) of this section. A 1671  
reasonable fee may be charged for this service. If a temporary 1672  
employment service submits a request for a determination of 1673  
whether a person the service plans to refer to an employment 1674  
position has been convicted of or pleaded guilty to an offense 1675  
listed in division (A)(1), ~~(3)~~, ~~(4)~~, ~~(5)~~, or ~~(6)~~(2) of section 1676

109.572 of the Revised Code or has been convicted of, pleaded 1677  
guilty to, or been found eligible for intervention in lieu of 1678  
conviction for a disqualifying offense as defined in section 1679  
173.394, 3701.881, or 5111.032 of the Revised Code, the request 1680  
shall be treated as a single request and only one fee shall be 1681  
charged. 1682

(F)(1) As used in division (F)(2) of this section, "head 1683  
start agency" means an entity in this state that has been approved 1684  
to be an agency for purposes of subchapter II of the "Community 1685  
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1686  
as amended. 1687

(2)(a) In addition to or in conjunction with any request that 1688  
is required to be made under section 109.572, 2151.86, 3301.32, 1689  
3301.541, division (C) of section 3310.58, or section 3319.39, 1690  
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 1691  
~~5126.28, 5126.281,~~ or 5153.111 of the Revised Code or that is made 1692  
under section 3314.41, 3319.392, 3326.25, or 3328.20 of the 1693  
Revised Code, the board of education of any school district; the 1694  
director of developmental disabilities; any county board of 1695  
developmental disabilities; any ~~entity under contract with a~~ 1696  
~~county board of developmental disabilities~~ provider or 1697  
subcontractor as defined in section 5123.081 of the Revised Code; 1698  
the chief administrator of any chartered nonpublic school; the 1699  
chief administrator of a registered private provider that is not 1700  
also a chartered nonpublic school; the chief administrator of any 1701  
home health agency; the chief administrator of or person operating 1702  
any child day-care center, type A family day-care home, or type B 1703  
family day-care home licensed or certified under Chapter 5104. of 1704  
the Revised Code; the administrator of any type C family day-care 1705  
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1706  
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1707  
general assembly; the chief administrator of any head start 1708

agency; the executive director of a public children services 1709  
agency; a private company described in section 3314.41, 3319.392, 1710  
3326.25, or 3328.20 of the Revised Code; or an employer described 1711  
in division (J)(2) of section 3327.10 of the Revised Code may 1712  
request that the superintendent of the bureau investigate and 1713  
determine, with respect to any individual who has applied for 1714  
employment in any position after October 2, 1989, or any 1715  
individual wishing to apply for employment with a board of 1716  
education may request, with regard to the individual, whether the 1717  
bureau has any information gathered under division (A) of this 1718  
section that pertains to that individual. On receipt of the 1719  
request, the superintendent shall determine whether that 1720  
information exists and, upon request of the person, board, or 1721  
entity requesting information, also shall request from the federal 1722  
bureau of investigation any criminal records it has pertaining to 1723  
that individual. The superintendent or the superintendent's 1724  
designee also may request criminal history records from other 1725  
states or the federal government pursuant to the national crime 1726  
prevention and privacy compact set forth in section 109.571 of the 1727  
Revised Code. Within thirty days of the date that the 1728  
superintendent receives a request, the superintendent shall send 1729  
to the board, entity, or person a report of any information that 1730  
the superintendent determines exists, including information 1731  
contained in records that have been sealed under section 2953.32 1732  
of the Revised Code, and, within thirty days of its receipt, shall 1733  
send the board, entity, or person a report of any information 1734  
received from the federal bureau of investigation, other than 1735  
information the dissemination of which is prohibited by federal 1736  
law. 1737

(b) When a board of education or a registered private 1738  
provider is required to receive information under this section as 1739  
a prerequisite to employment of an individual pursuant to division 1740  
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 1741

may accept a certified copy of records that were issued by the 1742  
bureau of criminal identification and investigation and that are 1743  
presented by an individual applying for employment with the 1744  
district in lieu of requesting that information itself. In such a 1745  
case, the board shall accept the certified copy issued by the 1746  
bureau in order to make a photocopy of it for that individual's 1747  
employment application documents and shall return the certified 1748  
copy to the individual. In a case of that nature, a district or 1749  
provider only shall accept a certified copy of records of that 1750  
nature within one year after the date of their issuance by the 1751  
bureau. 1752

(c) Notwithstanding division (F)(2)(a) of this section, in 1753  
the case of a request under section 3319.39, 3319.391, or 3327.10 1754  
of the Revised Code only for criminal records maintained by the 1755  
federal bureau of investigation, the superintendent shall not 1756  
determine whether any information gathered under division (A) of 1757  
this section exists on the person for whom the request is made. 1758

(3) The state board of education may request, with respect to 1759  
any individual who has applied for employment after October 2, 1760  
1989, in any position with the state board or the department of 1761  
education, any information that a school district board of 1762  
education is authorized to request under division (F)(2) of this 1763  
section, and the superintendent of the bureau shall proceed as if 1764  
the request has been received from a school district board of 1765  
education under division (F)(2) of this section. 1766

(4) When the superintendent of the bureau receives a request 1767  
for information under section 3319.291 of the Revised Code, the 1768  
superintendent shall proceed as if the request has been received 1769  
from a school district board of education and shall comply with 1770  
divisions (F)(2)(a) and (c) of this section. 1771

(5) When a recipient of a classroom reading improvement grant 1772  
paid under section 3301.86 of the Revised Code requests, with 1773

respect to any individual who applies to participate in providing 1774  
any program or service funded in whole or in part by the grant, 1775  
the information that a school district board of education is 1776  
authorized to request under division (F)(2)(a) of this section, 1777  
the superintendent of the bureau shall proceed as if the request 1778  
has been received from a school district board of education under 1779  
division (F)(2)(a) of this section. 1780

(G) In addition to or in conjunction with any request that is 1781  
required to be made under section 3701.881, 3712.09, or 3721.121~~7~~ 1782  
~~5119.693, or 5119.85~~ of the Revised Code with respect to an 1783  
individual who has applied for employment in a position that 1784  
involves providing direct care to an older adult or adult 1785  
resident, the chief administrator of a home health agency, hospice 1786  
care program, home licensed under Chapter 3721. of the Revised 1787  
Code, or adult day-care program operated pursuant to rules adopted 1788  
under section 3721.04 of the Revised Code, ~~adult foster home, or~~ 1789  
~~adult care facility~~ may request that the superintendent of the 1790  
bureau investigate and determine, with respect to any individual 1791  
who has applied after January 27, 1997, for employment in a 1792  
position that does not involve providing direct care to an older 1793  
adult or adult resident, whether the bureau has any information 1794  
gathered under division (A) of this section that pertains to that 1795  
individual. 1796

In addition to or in conjunction with any request that is 1797  
required to be made under section 173.27 of the Revised Code with 1798  
respect to an individual who has applied for employment in a 1799  
position that involves providing ombudsperson services to 1800  
residents of long-term care facilities or recipients of 1801  
community-based long-term care services, the state long-term care 1802  
ombudsperson, ombudsperson's designee, or director of health may 1803  
request that the superintendent investigate and determine, with 1804  
respect to any individual who has applied for employment in a 1805

position that does not involve providing such ombudsperson 1806  
services, whether the bureau has any information gathered under 1807  
division (A) of this section that pertains to that applicant. 1808

In addition to or in conjunction with any request that is 1809  
required to be made under section 173.394 of the Revised Code with 1810  
respect to an individual who has applied for employment in a 1811  
position that involves providing direct care to an individual, the 1812  
chief administrator of a community-based long-term care agency may 1813  
request that the superintendent investigate and determine, with 1814  
respect to any individual who has applied for employment in a 1815  
position that does not involve providing direct care, whether the 1816  
bureau has any information gathered under division (A) of this 1817  
section that pertains to that applicant. 1818

On receipt of a request under this division, the 1819  
superintendent shall determine whether that information exists 1820  
and, on request of the individual requesting information, shall 1821  
also request from the federal bureau of investigation any criminal 1822  
records it has pertaining to the applicant. The superintendent or 1823  
the superintendent's designee also may request criminal history 1824  
records from other states or the federal government pursuant to 1825  
the national crime prevention and privacy compact set forth in 1826  
section 109.571 of the Revised Code. Within thirty days of the 1827  
date a request is received, the superintendent shall send to the 1828  
requester a report of any information determined to exist, 1829  
including information contained in records that have been sealed 1830  
under section 2953.32 of the Revised Code, and, within thirty days 1831  
of its receipt, shall send the requester a report of any 1832  
information received from the federal bureau of investigation, 1833  
other than information the dissemination of which is prohibited by 1834  
federal law. 1835

(H) Information obtained by a government entity or person 1836  
under this section is confidential and shall not be released or 1837

disseminated. 1838

(I) The superintendent may charge a reasonable fee for 1839  
providing information or criminal records under division (F)(2) or 1840  
(G) of this section. 1841

(J) As used in this section: 1842

(1) "Sexually oriented offense" and "child-victim oriented 1843  
offense" have the same meanings as in section 2950.01 of the 1844  
Revised Code. 1845

(2) "Registered private provider" means a nonpublic school or 1846  
entity registered with the superintendent of public instruction 1847  
under section 3310.41 of the Revised Code to participate in the 1848  
autism scholarship program or section 3310.58 of the Revised Code 1849  
to participate in the Jon Peterson special needs scholarship 1850  
program. 1851

**Sec. 109.572.** (A)(1) Upon receipt of a request pursuant to 1852  
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 1853  
a completed form prescribed pursuant to division (C)(1) of this 1854  
section, and a set of fingerprint impressions obtained in the 1855  
manner described in division (C)(2) of this section, the 1856  
superintendent of the bureau of criminal identification and 1857  
investigation shall conduct a criminal records check in the manner 1858  
described in division (B) of this section to determine whether any 1859  
information exists that indicates that the person who is the 1860  
subject of the request previously has been convicted of or pleaded 1861  
guilty to any of the following: 1862

(a) A violation of section 2903.01, 2903.02, 2903.03, 1863  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1864  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1865  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1866  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1867

2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1868  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1869  
2925.06, or 3716.11 of the Revised Code, felonious sexual 1870  
penetration in violation of former section 2907.12 of the Revised 1871  
Code, a violation of section 2905.04 of the Revised Code as it 1872  
existed prior to July 1, 1996, a violation of section 2919.23 of 1873  
the Revised Code that would have been a violation of section 1874  
2905.04 of the Revised Code as it existed prior to July 1, 1996, 1875  
had the violation been committed prior to that date, or a 1876  
violation of section 2925.11 of the Revised Code that is not a 1877  
minor drug possession offense; 1878

(b) A violation of an existing or former law of this state, 1879  
any other state, or the United States that is substantially 1880  
equivalent to any of the offenses listed in division (A)(1)(a) of 1881  
this section. 1882

~~(2) On receipt of a request pursuant to section 5123.081 of 1883  
the Revised Code with respect to an applicant for employment in 1884  
any position with the department of developmental disabilities, 1885  
pursuant to section 5126.28 of the Revised Code with respect to an 1886  
applicant for employment in any position with a county board of 1887  
developmental disabilities, or pursuant to section 5126.281 of the 1888  
Revised Code with respect to an applicant for employment in a 1889  
direct services position with an entity contracting with a county 1890  
board for employment, a completed form prescribed pursuant to 1891  
division (C)(1) of this section, and a set of fingerprint 1892  
impressions obtained in the manner described in division (C)(2) of 1893  
this section, the superintendent of the bureau of criminal 1894  
identification and investigation shall conduct a criminal records 1895  
check. The superintendent shall conduct the criminal records check 1896  
in the manner described in division (B) of this section to 1897  
determine whether any information exists that indicates that the 1898  
person who is the subject of the request has been convicted of or 1899~~

~~pleaded guilty to any of the following:~~ 1900

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1901  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1902  
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 1903  
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 1904  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1905  
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 1906  
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 1907  
2925.03, or 3716.11 of the Revised Code;~~ 1908

~~(b) An existing or former municipal ordinance or law of this 1909  
state, any other state, or the United States that is substantially 1910  
equivalent to any of the offenses listed in division (A)(2)(a) of 1911  
this section.~~ 1912

~~(3) On receipt of a request pursuant to section ~~173.27,~~ 1913  
~~173.394,~~ 3712.09, or 3721.121, ~~5119.693,~~ or ~~5119.85~~ of the Revised 1914  
Code, a completed form prescribed pursuant to division (C)(1) of 1915  
this section, and a set of fingerprint impressions obtained in the 1916  
manner described in division (C)(2) of this section, the 1917  
superintendent of the bureau of criminal identification and 1918  
investigation shall conduct a criminal records check with respect 1919  
to any person who has applied for employment in a position for 1920  
which a criminal records check is required by those sections. The 1921  
superintendent shall conduct the criminal records check in the 1922  
manner described in division (B) of this section to determine 1923  
whether any information exists that indicates that the person who 1924  
is the subject of the request previously has been convicted of or 1925  
pleaded guilty to any of the following:~~ 1926

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1927  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1928  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1929  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1930  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1931~~

2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1932  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1933  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1934  
2925.22, 2925.23, or 3716.11 of the Revised Code; 1935

(b) An existing or former law of this state, any other state, 1936  
or the United States that is substantially equivalent to any of 1937  
the offenses listed in division (A)~~(3)~~(2)(a) of this section. 1938

~~(4) On receipt of a request pursuant to section 3701.881 of 1939  
the Revised Code with respect to an applicant for employment with 1940  
a home health agency as a person responsible for the care, 1941  
custody, or control of a child, a completed form prescribed 1942  
pursuant to division (C)(1) of this section, and a set of 1943  
fingerprint impressions obtained in the manner described in 1944  
division (C)(2) of this section, the superintendent of the bureau 1945  
of criminal identification and investigation shall conduct a 1946  
criminal records check. The superintendent shall conduct the 1947  
criminal records check in the manner described in division (B) of 1948  
this section to determine whether any information exists that 1949  
indicates that the person who is the subject of the request 1950  
previously has been convicted of or pleaded guilty to any of the 1951  
following: 1952~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1953  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1954  
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1955  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1956  
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1957  
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1958  
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1959  
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1960  
violation of section 2925.11 of the Revised Code that is not a 1961  
minor drug possession offense; 1962~~

~~(b) An existing or former law of this state, any other state, 1963~~

~~or the United States that is substantially equivalent to any of~~ 1964  
~~the offenses listed in division (A)(4)(a) of this section.~~ 1965

~~(5)(3) On receipt of a request pursuant to section 173.27,~~ 1966  
~~173.394, 3701.881, 5111.032, 5111.033, ~~or~~ 5111.034, 5123.081, or~~ 1967  
~~5123.169 of the Revised Code, a completed form prescribed pursuant~~ 1968  
~~to division (C)(1) of this section, and a set of fingerprint~~ 1969  
~~impressions obtained in the manner described in division (C)(2) of~~ 1970  
~~this section, the superintendent of the bureau of criminal~~ 1971  
~~identification and investigation shall conduct a criminal records~~ 1972  
~~check of the person for whom the request is made. The~~ 1973  
~~superintendent shall conduct the criminal records check in the~~ 1974  
~~manner described in division (B) of this section to determine~~ 1975  
~~whether any information exists that indicates that the person who~~ 1976  
~~is the subject of the request previously has been convicted of,~~ 1977  
~~has pleaded guilty to, or has been found eligible for intervention~~ 1978  
~~in lieu of conviction for ~~any of the following, regardless of the~~~~ 1979  
~~~~date of the conviction, the date of entry of the guilty plea, or~~~~ 1980  
~~~~the date the person was found eligible for intervention in lieu of~~~~ 1981  
~~conviction:~~ 1982

~~(a) A violation of section ~~959.13, 2903.01, 2903.02, 2903.03,~~~~ 1983  
~~~~2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,~~~~ 1984  
~~~~2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,~~~~ 1985  
~~~~2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,~~~~ 1986  
~~~~2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24,~~~~ 1987  
~~~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,~~~~ 1988  
~~~~2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01,~~~~ 1989  
~~~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04,~~~~ 1990  
~~~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41,~~~~ 1991  
~~~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47,~~~~ 1992  
~~~~2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11,~~~~ 1993  
~~~~2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03,~~~~ 1994  
~~~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02,~~~~ 1995

~~2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 1996  
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 1997  
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 1998  
penetration in violation of former section 2907.12 of the Revised 1999  
Code, a violation of section 2905.04 of the Revised Code as it 2000  
existed prior to July 1, 1996, a violation of section 2919.23 of 2001  
the Revised Code that would have been a violation of section 2002  
2905.04 of the Revised Code as it existed prior to July 1, 1996, 2003  
had the violation been committed prior to that date; 2004~~

~~(b) A violation of an existing or former municipal ordinance 2005  
or law of this state, any other state, or the United States that 2006  
is substantially equivalent to any of the offenses listed in 2007  
division (A)(5)(a) of this section a disqualifying offense as 2008  
defined in the section of the Revised Code under which the request 2009  
is made. 2010~~

~~(6) On receipt of a request pursuant to section 3701.881 of 2011  
the Revised Code with respect to an applicant for employment with 2012  
a home health agency in a position that involves providing direct 2013  
care to an older adult, a completed form prescribed pursuant to 2014  
division (C)(1) of this section, and a set of fingerprint 2015  
impressions obtained in the manner described in division (C)(2) of 2016  
this section, the superintendent of the bureau of criminal 2017  
identification and investigation shall conduct a criminal records 2018  
check. The superintendent shall conduct the criminal records check 2019  
in the manner described in division (B) of this section to 2020  
determine whether any information exists that indicates that the 2021  
person who is the subject of the request previously has been 2022  
convicted of or pleaded guilty to any of the following: 2023~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 2024  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2025  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2026  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2027~~

~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2028  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2029  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2030  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2031  
2925.22, 2925.23, or 3716.11 of the Revised Code;~~ 2032

~~(b) An existing or former law of this state, any other state, 2033  
or the United States that is substantially equivalent to any of 2034  
the offenses listed in division (A)(6)(a) of this section. 2035~~

~~(7)(4) When conducting a criminal records check upon a 2036  
request pursuant to section 3319.39 of the Revised Code for an 2037  
applicant who is a teacher, in addition to the determination made 2038  
under division (A)(1) of this section, the superintendent shall 2039  
determine whether any information exists that indicates that the 2040  
person who is the subject of the request previously has been 2041  
convicted of or pleaded guilty to any offense specified in section 2042  
3319.31 of the Revised Code. 2043~~

~~(8)(5) On receipt of a request pursuant to section 2151.86 of 2044  
the Revised Code, a completed form prescribed pursuant to division 2045  
(C)(1) of this section, and a set of fingerprint impressions 2046  
obtained in the manner described in division (C)(2) of this 2047  
section, the superintendent of the bureau of criminal 2048  
identification and investigation shall conduct a criminal records 2049  
check in the manner described in division (B) of this section to 2050  
determine whether any information exists that indicates that the 2051  
person who is the subject of the request previously has been 2052  
convicted of or pleaded guilty to any of the following: 2053~~

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2054  
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2055  
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2056  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2057  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2058  
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2059~~

2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2060  
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2061  
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 2062  
of the Revised Code, a violation of section 2905.04 of the Revised 2063  
Code as it existed prior to July 1, 1996, a violation of section 2064  
2919.23 of the Revised Code that would have been a violation of 2065  
section 2905.04 of the Revised Code as it existed prior to July 1, 2066  
1996, had the violation been committed prior to that date, a 2067  
violation of section 2925.11 of the Revised Code that is not a 2068  
minor drug possession offense, two or more OVI or OVUAC violations 2069  
committed within the three years immediately preceding the 2070  
submission of the application or petition that is the basis of the 2071  
request, or felonious sexual penetration in violation of former 2072  
section 2907.12 of the Revised Code; 2073

(b) A violation of an existing or former law of this state, 2074  
any other state, or the United States that is substantially 2075  
equivalent to any of the offenses listed in division (A)~~(8)~~(5)(a) 2076  
of this section. 2077

~~(9)~~(6) Upon receipt of a request pursuant to section 5104.012 2078  
or 5104.013 of the Revised Code, a completed form prescribed 2079  
pursuant to division (C)(1) of this section, and a set of 2080  
fingerprint impressions obtained in the manner described in 2081  
division (C)(2) of this section, the superintendent of the bureau 2082  
of criminal identification and investigation shall conduct a 2083  
criminal records check in the manner described in division (B) of 2084  
this section to determine whether any information exists that 2085  
indicates that the person who is the subject of the request has 2086  
been convicted of or pleaded guilty to any of the following: 2087

(a) A violation of section 2903.01, 2903.02, 2903.03, 2088  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2089  
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2090  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2091

2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2092  
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2093  
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2094  
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2095  
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2096  
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2097  
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 2098  
3716.11 of the Revised Code, felonious sexual penetration in 2099  
violation of former section 2907.12 of the Revised Code, a 2100  
violation of section 2905.04 of the Revised Code as it existed 2101  
prior to July 1, 1996, a violation of section 2919.23 of the 2102  
Revised Code that would have been a violation of section 2905.04 2103  
of the Revised Code as it existed prior to July 1, 1996, had the 2104  
violation been committed prior to that date, a violation of 2105  
section 2925.11 of the Revised Code that is not a minor drug 2106  
possession offense, a violation of section 2923.02 or 2923.03 of 2107  
the Revised Code that relates to a crime specified in this 2108  
division, or a second violation of section 4511.19 of the Revised 2109  
Code within five years of the date of application for licensure or 2110  
certification. 2111

(b) A violation of an existing or former law of this state, 2112  
any other state, or the United States that is substantially 2113  
equivalent to any of the offenses or violations described in 2114  
division (A)~~(9)~~(6)(a) of this section. 2115

~~(10)~~(7) Upon receipt of a request pursuant to section 2116  
5153.111 of the Revised Code, a completed form prescribed pursuant 2117  
to division (C)(1) of this section, and a set of fingerprint 2118  
impressions obtained in the manner described in division (C)(2) of 2119  
this section, the superintendent of the bureau of criminal 2120  
identification and investigation shall conduct a criminal records 2121  
check in the manner described in division (B) of this section to 2122  
determine whether any information exists that indicates that the 2123

person who is the subject of the request previously has been 2124  
convicted of or pleaded guilty to any of the following: 2125

(a) A violation of section 2903.01, 2903.02, 2903.03, 2126  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2127  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2128  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2129  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2130  
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2131  
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2132  
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 2133  
felonious sexual penetration in violation of former section 2134  
2907.12 of the Revised Code, a violation of section 2905.04 of the 2135  
Revised Code as it existed prior to July 1, 1996, a violation of 2136  
section 2919.23 of the Revised Code that would have been a 2137  
violation of section 2905.04 of the Revised Code as it existed 2138  
prior to July 1, 1996, had the violation been committed prior to 2139  
that date, or a violation of section 2925.11 of the Revised Code 2140  
that is not a minor drug possession offense; 2141

(b) A violation of an existing or former law of this state, 2142  
any other state, or the United States that is substantially 2143  
equivalent to any of the offenses listed in division (A)~~(10)~~(7)(a) 2144  
of this section. 2145

~~(11)~~(8) On receipt of a request for a criminal records check 2146  
from an individual pursuant to section 4749.03 or 4749.06 of the 2147  
Revised Code, accompanied by a completed copy of the form 2148  
prescribed in division (C)(1) of this section and a set of 2149  
fingerprint impressions obtained in a manner described in division 2150  
(C)(2) of this section, the superintendent of the bureau of 2151  
criminal identification and investigation shall conduct a criminal 2152  
records check in the manner described in division (B) of this 2153  
section to determine whether any information exists indicating 2154  
that the person who is the subject of the request has been 2155

convicted of or pleaded guilty to a felony in this state or in any 2156  
other state. If the individual indicates that a firearm will be 2157  
carried in the course of business, the superintendent shall 2158  
require information from the federal bureau of investigation as 2159  
described in division (B)(2) of this section. The superintendent 2160  
shall report the findings of the criminal records check and any 2161  
information the federal bureau of investigation provides to the 2162  
director of public safety. 2163

~~(12)~~(9) On receipt of a request pursuant to section 1321.37, 2164  
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 2165  
Code, a completed form prescribed pursuant to division (C)(1) of 2166  
this section, and a set of fingerprint impressions obtained in the 2167  
manner described in division (C)(2) of this section, the 2168  
superintendent of the bureau of criminal identification and 2169  
investigation shall conduct a criminal records check with respect 2170  
to any person who has applied for a license, permit, or 2171  
certification from the department of commerce or a division in the 2172  
department. The superintendent shall conduct the criminal records 2173  
check in the manner described in division (B) of this section to 2174  
determine whether any information exists that indicates that the 2175  
person who is the subject of the request previously has been 2176  
convicted of or pleaded guilty to any of the following: a 2177  
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2178  
2925.03 of the Revised Code; any other criminal offense involving 2179  
theft, receiving stolen property, embezzlement, forgery, fraud, 2180  
passing bad checks, money laundering, or drug trafficking, or any 2181  
criminal offense involving money or securities, as set forth in 2182  
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 2183  
the Revised Code; or any existing or former law of this state, any 2184  
other state, or the United States that is substantially equivalent 2185  
to those offenses. 2186

~~(13)~~(10) On receipt of a request for a criminal records check 2187

from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 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, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. The superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

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

~~(15)~~(12) On receipt of a request for a criminal records check 2220  
from an appointing or licensing authority under section 3772.07 of 2221  
the Revised Code, a completed form prescribed under division 2222  
(C)(1) of this section, and a set of fingerprint impressions 2223  
obtained in the manner prescribed in division (C)(2) of this 2224  
section, the superintendent of the bureau of criminal 2225  
identification and investigation shall conduct a criminal records 2226  
check in the manner described in division (B) of this section to 2227  
determine whether any information exists that indicates that the 2228  
person who is the subject of the request previously has been 2229  
convicted of or pleaded guilty or no contest to any offense under 2230  
any existing or former law of this state, any other state, or the 2231  
United States that is a disqualifying offense as defined in 2232  
section 3772.07 of the Revised Code or substantially equivalent to 2233  
such an offense. 2234

~~(16)~~(13) On receipt of a request pursuant to section 2151.33 2235  
or 2151.412 of the Revised Code, a completed form prescribed 2236  
pursuant to division (C)(1) of this section, and a set of 2237  
fingerprint impressions obtained in the manner described in 2238  
division (C)(2) of this section, the superintendent of the bureau 2239  
of criminal identification and investigation shall conduct a 2240  
criminal records check with respect to any person for whom a 2241  
criminal records check is required by that section. The 2242  
superintendent shall conduct the criminal records check in the 2243  
manner described in division (B) of this section to determine 2244  
whether any information exists that indicates that the person who 2245  
is the subject of the request previously has been convicted of or 2246  
pleaded guilty to any of the following: 2247

(a) A violation of section 2903.01, 2903.02, 2903.03, 2248  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2249  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2250  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2251

2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2252  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2253  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2254  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2255  
2925.22, 2925.23, or 3716.11 of the Revised Code; 2256

(b) An existing or former law of this state, any other state, 2257  
or the United States that is substantially equivalent to any of 2258  
the offenses listed in division (A)(13)(a) of this section. 2259

(14) Not later than thirty days after the date the 2260  
superintendent receives a request of a type described in division 2261  
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), ~~(10)~~, (11), (12), 2262  
~~(14)~~, or ~~(15)~~(13) of this section, the completed form, and the 2263  
fingerprint impressions, the superintendent shall send the results 2264  
of the criminal records check to the person, board, or entity that 2265  
made the request ~~any information, other than~~. The superintendent 2266  
shall exclude from the results any information the dissemination 2267  
of which is prohibited by federal law, ~~the superintendent~~ 2268  
~~determines exists with respect to the person who is the subject of~~ 2269  
~~the request that indicates that the person previously has been~~ 2270  
~~convicted of or pleaded guilty to any offense listed or described~~ 2271  
~~in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), ~~(10)~~,~~ 2272  
~~(11), (12), (14), or (15) of this section, as appropriate. The~~ 2273  
superintendent shall send the person, board, or entity that made 2274  
the request a copy of the list of offenses ~~specified in division~~ 2275  
~~(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),~~ 2276  
~~(14), or (15) of this section, as appropriate for which the~~ 2277  
criminal records check was conducted. ~~If the request was made~~ 2278  
~~under section 3701.881 of the Revised Code with regard to an~~ 2279  
~~applicant who may be both responsible for the care, custody, or~~ 2280  
~~control of a child and involved in providing direct care to an~~ 2281  
~~elder adult, the superintendent shall provide a list of the~~ 2282  
~~offenses specified in divisions (A)(4) and (6) of this section.~~ 2283

Not later than thirty days after the superintendent receives 2284  
a request for a criminal records check pursuant to section 113.041 2285  
of the Revised Code, the completed form, and the fingerprint 2286  
impressions, the superintendent shall send the treasurer of state 2287  
any information, other than information the dissemination of which 2288  
is prohibited by federal law, the superintendent determines exist 2289  
with respect to the person who is the subject of the request that 2290  
indicates that the person previously has been convicted of or 2291  
pleaded guilty to any criminal offense in this state or any other 2292  
state. 2293

(B) The superintendent shall conduct any criminal records 2294  
check ~~requested under section 113.041, 121.08, 173.27, 173.394,~~ 2295  
~~1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03,~~ 2296  
~~1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39,~~ 2297  
~~3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101, 4717.061,~~ 2298  
~~4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28,~~ 2299  
~~4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296,~~ 2300  
~~4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06,~~ 2301  
~~4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051,~~ 2302  
~~4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013,~~ 2303  
~~5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081,~~ 2304  
~~5126.28, 5126.281, or 5153.111 of the Revised Code to be conducted~~ 2305  
~~under this section as follows:~~ 2306

(1) The superintendent shall review or cause to be reviewed 2307  
any relevant information gathered and compiled by the bureau under 2308  
division (A) of section 109.57 of the Revised Code that relates to 2309  
the person who is the subject of the ~~request~~ criminal records 2310  
check, including, if the criminal records check was requested 2311  
under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 2312  
1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 2313  
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 2314  
3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 2315

5104.013, 5111.032, 5111.033, 5111.034, ~~5119.693, 5119.85,~~ 2316  
5123.081, ~~5126.28, 5126.281,~~ 5123.169, or 5153.111 of the Revised 2317  
Code, any relevant information contained in records that have been 2318  
sealed under section 2953.32 of the Revised Code; 2319

(2) If the request received by the superintendent asks for 2320  
information from the federal bureau of investigation, the 2321  
superintendent shall request from the federal bureau of 2322  
investigation any information it has with respect to the person 2323  
who is the subject of the ~~request~~ criminal records check, 2324  
including fingerprint-based checks of national crime information 2325  
databases as described in 42 U.S.C. 671 if the request is made 2326  
pursuant to section 2151.86, 5104.012, or 5104.013 of the Revised 2327  
Code or if any other Revised Code section requires 2328  
fingerprint-based checks of that nature, and shall review or cause 2329  
to be reviewed any information the superintendent receives from 2330  
that bureau. If a request under section 3319.39 of the Revised 2331  
Code asks only for information from the federal bureau of 2332  
investigation, the superintendent shall not conduct the review 2333  
prescribed by division (B)(1) of this section. 2334

(3) The superintendent or the superintendent's designee may 2335  
request criminal history records from other states or the federal 2336  
government pursuant to the national crime prevention and privacy 2337  
compact set forth in section 109.571 of the Revised Code. 2338

(C)(1) The superintendent shall prescribe a form to obtain 2339  
the information necessary to conduct a criminal records check from 2340  
any person for whom a criminal records check is ~~requested under~~ 2341  
~~section 113.041 of the Revised Code or required by section 121.08,~~ 2342  
~~173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53,~~ 2343  
~~1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32,~~ 2344  
~~3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08,~~ 2345  
~~4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101,~~ 2346  
~~4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2347

~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2348  
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2349  
~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2350  
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2351  
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2352  
conducted under this section. The form that the superintendent 2353  
prescribes pursuant to this division may be in a tangible format, 2354  
in an electronic format, or in both tangible and electronic 2355  
formats. 2356

(2) The superintendent shall prescribe standard impression 2357  
sheets to obtain the fingerprint impressions of any person for 2358  
whom a criminal records check is ~~requested under section 113.041~~ 2359  
~~of the Revised Code or required by section 121.08, 173.27,~~ 2360  
~~173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531,~~ 2361  
~~1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541,~~ 2362  
~~3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101,~~ 2363  
~~4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14,~~ 2364  
~~4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2365  
~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2366  
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2367  
~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2368  
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2369  
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2370  
conducted under this section. Any person for whom a records check 2371  
is ~~requested under or required by any of those sections to be~~ 2372  
conducted under this section shall obtain the fingerprint 2373  
impressions at a county sheriff's office, municipal police 2374  
department, or any other entity with the ability to make 2375  
fingerprint impressions on the standard impression sheets 2376  
prescribed by the superintendent. The office, department, or 2377  
entity may charge the person a reasonable fee for making the 2378  
impressions. The standard impression sheets the superintendent 2379  
prescribes pursuant to this division may be in a tangible format, 2380

in an electronic format, or in both tangible and electronic 2381  
formats. 2382

(3) Subject to division (D) of this section, the 2383  
superintendent shall prescribe and charge a reasonable fee for 2384  
providing a criminal records check ~~requested under section~~ 2385  
~~113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05,~~ 2386  
~~1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26,~~ 2387  
~~2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121,~~ 2388  
~~3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501,~~ 2389  
~~4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171,~~ 2390  
~~4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202,~~ 2391  
~~4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061,~~ 2392  
~~4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091,~~ 2393  
~~5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693,~~ 2394  
~~5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised~~ 2395  
~~Code under this section.~~ The person ~~making a~~ requesting the 2396  
criminal records ~~request under any of those sections~~ check shall 2397  
pay the fee prescribed pursuant to this division. ~~A person making~~ 2398  
~~a request under section 3701.881 of the Revised Code for a~~ 2399  
~~criminal records check for an applicant who may be both~~ 2400  
~~responsible for the care, custody, or control of a child and~~ 2401  
~~involved in providing direct care to an older adult shall pay one~~ 2402  
~~fee for the request.~~ In the case of a request under section 2403  
1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 2404  
2151.412, or 5111.032 of the Revised Code, the fee shall be paid 2405  
in the manner specified in that section. 2406

(4) The superintendent of the bureau of criminal 2407  
identification and investigation may prescribe methods of 2408  
forwarding fingerprint impressions and information necessary to 2409  
conduct a criminal records check, which methods shall include, but 2410  
not be limited to, an electronic method. 2411

(D) ~~A determination whether any information exists that~~ 2412

~~indicates that a person previously has been convicted of or~~ 2413  
~~pleaded guilty to any offense listed or described in division~~ 2414  
~~(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or~~ 2415  
~~(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b),~~ 2416  
~~(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15)~~ 2417  
~~of this section, or that indicates that a person previously has~~ 2418  
~~been convicted of or pleaded guilty to any criminal offense in~~ 2419  
~~this state or any other state regarding a criminal records check~~ 2420  
~~of a type described in division (A)(13) of this section, and that~~ 2421  
~~is made by the superintendent with respect to information~~ 2422  
~~considered in~~ The results of a criminal records check in 2423  
~~accordance with~~ conducted under this section ~~is,~~ other than a 2424  
criminal records check specified in division (A)(8) of this 2425  
section, are valid for the person who is the subject of the 2426  
criminal records check for a period of one year from the date upon 2427  
which the superintendent ~~makes the determination~~ completes the 2428  
criminal records check. ~~During the~~ If during that period ~~in which~~ 2429  
~~the determination in regard to a person is valid,~~ if the 2430  
superintendent receives another request ~~under this section is made~~ 2431  
for a criminal records check to be conducted under this section 2432  
for that person, the superintendent shall provide the ~~information~~ 2433  
~~that is the basis for the superintendent's initial determination~~ 2434  
results from the previous criminal records check of the person at 2435  
a lower fee than the fee prescribed for the initial criminal 2436  
records check. 2437

(E) When the superintendent receives a request for 2438  
information from a registered private provider, the superintendent 2439  
shall proceed as if the request was received from a school 2440  
district board of education under section 3319.39 of the Revised 2441  
Code. The superintendent shall apply division (A)~~(7)~~(4) of this 2442  
section to any such request for an applicant who is a teacher. 2443

(F) As used in this section: 2444

(1) "Criminal records check" means any criminal records check 2445  
conducted by the superintendent of the bureau of criminal 2446  
identification and investigation in accordance with division (B) 2447  
of this section. 2448

(2) "Minor drug possession offense" has the same meaning as 2449  
in section 2925.01 of the Revised Code. 2450

~~(3) "Older adult" means a person age sixty or older.~~ 2451

~~(4)~~ "OVI or OVUAC violation" means a violation of section 2452  
4511.19 of the Revised Code or a violation of an existing or 2453  
former law of this state, any other state, or the United States 2454  
that is substantially equivalent to section 4511.19 of the Revised 2455  
Code. 2456

~~(5)~~(4) "Registered private provider" means a nonpublic school 2457  
or entity registered with the superintendent of public instruction 2458  
under section 3310.41 of the Revised Code to participate in the 2459  
autism scholarship program or section 3310.58 of the Revised Code 2460  
to participate in the Jon Peterson special needs scholarship 2461  
program. 2462

**Sec. 109.801.** (A)(1) Each year, any of the following persons 2463  
who are authorized to carry firearms in the course of their 2464  
official duties shall complete successfully a firearms 2465  
requalification program approved by the executive director of the 2466  
Ohio peace officer training commission in accordance with rules 2467  
adopted by the attorney general pursuant to section 109.743 of the 2468  
Revised Code: any peace officer, sheriff, chief of police of an 2469  
organized police department of a municipal corporation or 2470  
township, chief of police of a township police district or joint 2471  
police district police force, superintendent of the state highway 2472  
patrol, state highway patrol trooper, or chief of police of a 2473  
university or college police department; any parole or probation 2474  
officer who carries a firearm in the course of official duties; 2475

the house of representatives sergeant at arms if the house of 2476  
representatives sergeant at arms has arrest authority pursuant to 2477  
division (E)(1) of section 101.311 of the Revised Code; any 2478  
assistant house of representatives sergeant at arms; the senate 2479  
sergeant at arms; any assistant senate sergeant at arms; or any 2480  
employee of the department of youth services who is designated 2481  
pursuant to division (A)(2) of section 5139.53 of the Revised Code 2482  
as being authorized to carry a firearm while on duty as described 2483  
in that division. 2484

(2) No person listed in division (A)(1) of this section shall 2485  
carry a firearm during the course of official duties if the person 2486  
does not comply with division (A)(1) of this section. 2487

(B) The hours that a sheriff spends attending a firearms 2488  
requalification program required by division (A) of this section 2489  
are in addition to the sixteen hours of continuing education that 2490  
are required by division (E) of section 311.01 of the Revised 2491  
Code. 2492

(C) As used in this section, "firearm" has the same meaning 2493  
as in section 2923.11 of the Revised Code. 2494

**Sec. 119.032.** (A) As used in this section and in section 2495  
119.033 of the Revised Code: 2496

(1) "Agency" includes both an agency as defined in division 2497  
(A)(2) of section 111.15 and an agency as defined in division (A) 2498  
of section 119.01 of the Revised Code. 2499

(2) "Review date" means the review date assigned to a rule by 2500  
an agency ~~under division (B) or (E)(2) of this section or under~~ 2501  
~~section 111.15, 119.04, or 4141.14 of the Revised Code or a review~~ 2502  
~~date~~ or an extended review date assigned to a rule by the joint 2503  
committee on agency rule review ~~under division (B) of this~~ 2504  
~~section.~~ 2505

(3)(a) "Rule" means only a rule whose adoption, amendment, or rescission is subject to review under division (D) of section 111.15 or division (H) of section 119.03 of the Revised Code.

(b) "Rule" does not include ~~a rule adopted, amended, or rescinded by the department of taxation under section 5703.14 of the Revised Code,~~ a rule of a state college or university, community college district, technical college district, or state community college, or a rule that is consistent with and equivalent to the form required by a federal law and that does not exceed the minimum scope and intent of that federal law.

~~(B) Not later than March 25, 1997, each agency shall assign a review date to each of its rules that is currently in effect and shall notify the joint committee on agency rule review of the review date for each such rule. The agency shall assign review dates to its rules so that approximately one fifth of the rules are scheduled for review during each calendar year of the five year period that begins March 25, 1997, except that an agency, with the joint committee's approval, may set a review schedule for the agency's rules in which there is no requirement that approximately one fifth of the agency's rules be assigned a review date during each calendar year of the five year period but in which all of the agency's rules are assigned a review date during that five year period. An agency may change the review dates it has assigned to specific rules so long as the agency complies with the five-year time deadline specified in this division.~~

Upon the request of the agency that adopted the rule, the joint committee on agency rule review may extend a review date of a rule to a date that is not later than one hundred eighty days after the ~~original~~ review date assigned to the rule by the agency ~~under this division, division (E)(2) of this section, or section 111.15, 119.04, or 4141.14 of the Revised Code.~~ The joint

committee may further extend a review date that has been extended 2538  
under this paragraph if appropriate under the circumstances. 2539

(C) Prior to the review date of a rule, the agency that 2540  
adopted the rule shall review the rule to determine all of the 2541  
following: 2542

(1) Whether the rule should be continued without amendment, 2543  
be amended, or be rescinded, taking into consideration the 2544  
purpose, scope, and intent of the statute under which the rule was 2545  
adopted; 2546

(2) Whether the rule needs amendment or rescission to give 2547  
more flexibility at the local level; 2548

(3) Whether the rule needs amendment or rescission to 2549  
eliminate unnecessary paperwork, or whether the rule incorporates 2550  
a text or other material by reference and, if so, whether the text 2551  
or other material incorporated by reference is deposited or 2552  
displayed as required by section 121.74 of the Revised Code and 2553  
whether the incorporation by reference meets the standards stated 2554  
in sections 121.72, 121.75, and 121.76 of the Revised Code; 2555

(4) Whether the rule duplicates, overlaps with, or conflicts 2556  
with other rules; 2557

(5) Whether the rule has an adverse impact on businesses, 2558  
reviewing the rule as if it were a draft rule being reviewed under 2559  
sections 107.52 and 107.53 of the Revised Code, and whether any 2560  
such adverse impact has been eliminated or reduced. 2561

~~(D)~~ In making ~~the~~ its review ~~required under division (C) of~~ 2562  
~~this section~~, the agency shall consider the continued need for the 2563  
rule, the nature of any complaints or comments received concerning 2564  
the rule, and any relevant factors that have changed in the 2565  
subject matter area affected by the rule. 2566

~~(E)(1) On or before the designated review date of a rule, the~~ 2567

~~agency that adopted the rule shall proceed under division (E)(2) 2568  
or (5) of this section to indicate that the agency has reviewed 2569  
the rule. 2570~~

~~(2) If the agency has determined that the rule does not need 2571  
to be amended or rescinded, the agency shall file all the 2572  
following, in electronic form, with the joint committee on agency 2573  
rule review, the secretary of state, and the director of the 2574  
legislative service commission: a copy of the rule, a statement of 2575  
the agency's determination, and an accurate rule summary and 2576  
fiscal analysis for the rule as described in section 127.18 of the 2577  
Revised Code. The agency shall assign a new review date to the 2578  
rule, which shall not be later than five years after the rule's 2579  
immediately preceding review date. After the joint committee has 2580  
reviewed such a rule for the first time, including any rule that 2581  
was in effect on September 26, 1996, the agency in its subsequent 2582  
reviews of the rule may provide the same fiscal analysis it 2583  
provided to the joint committee during its immediately preceding 2584  
review of the rule unless any of the conditions described in 2585  
division (B)(4), (5), (6), (8), (9), or (10) of section 127.18 of 2586  
the Revised Code, as they relate to the rule, have appreciably 2587  
changed since the joint committee's immediately preceding review 2588  
of the rule. If any of these conditions, as they relate to the 2589  
rule, have appreciably changed, the agency shall provide the joint 2590  
committee with an updated fiscal analysis for the rule. If no 2591  
review date is assigned to a rule, or if a review date assigned to 2592  
a rule exceeds the five year maximum, the review date for the rule 2593  
is five years after its immediately preceding review date. The 2594  
joint committee shall give public notice in the register of Ohio 2595  
of the agency's determination after receiving a notice from the 2596  
agency under division (E)(2) of this section. The joint committee 2597  
shall transmit a copy of the notice in electronic form to the 2598  
director of the legislative service commission. The director shall 2599  
publish the notice in the register of Ohio for four consecutive 2600~~

~~weeks after its receipt.~~ 2601

~~(3) During the ninety day period following the date the joint committee receives a notice under division (E)(2) of this section but after the four week period described in division (E)(2) of this section has ended, the joint committee, by a two thirds vote of the members present, may recommend the adoption of a concurrent resolution invalidating the rule if the joint committee determines that any of the following apply:~~ 2602  
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~~(a) The agency improperly applied the criteria described in divisions (C) and (D) of this section in reviewing the rule and in recommending its continuance without amendment or rescission.~~ 2609  
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~~(b) The agency failed to file proper notice with the joint committee regarding the rule, or if the rule incorporates a text or other material by reference, the agency failed to file, or to deposit or display, the text or other material incorporated by reference as required by section 121.73 or 121.74 of the Revised Code or the incorporation by reference fails to meet the standards stated in section 121.72, 121.75, or 121.76 of the Revised Code.~~ 2612  
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~~(c) The rule has an adverse impact on businesses, as determined under section 107.52 of the Revised Code, and the agency has not eliminated or reduced that impact as required under section 121.82 of the Revised Code.~~ 2619  
2620  
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~~(4) If the joint committee does not take the action described in division (E)(3) of this section regarding a rule during the ninety day period after the date the joint committee receives a notice under division (E)(2) of this section regarding that rule, the rule shall continue in effect without amendment and shall be next reviewed by the joint committee by the date designated by the agency in the notice provided to the joint committee under division (E)(2) of this section.~~ 2623  
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~~(5) If the agency has determined that a rule reviewed under~~ 2631

~~division (C) of this section needs to be amended or rescinded, the~~ 2632  
~~agency, on or before the rule's review date, shall file the rule~~ 2633  
~~as amended or rescinded in accordance with section 111.15, 119.03,~~ 2634  
~~or 4141.14 of the Revised Code, as applicable.~~ 2635

~~(6)(D) Prior to the review date of a rule, the agency that~~ 2636  
~~adopted the rule shall determine, on the basis of its review of~~ 2637  
~~the rule, whether the rule needs to be amended or rescinded.~~ 2638

~~(1) If the rule needs to be amended or rescinded, the agency,~~ 2639  
~~on or before the review date of the rule, shall commence the~~ 2640  
~~process of amending or rescinding the rule in accordance with its~~ 2641  
~~review of the rule.~~ 2642

~~(2) If the rule does not need to be amended or rescinded,~~ 2643  
~~proceedings shall be had under section 119.033 of the Revised~~ 2644  
~~Code.~~ 2645

~~(E) Each agency shall provide the joint committee with a copy~~ 2646  
~~of the rules that it has determined are rules described in~~ 2647  
~~division (A)(3)(b) of this section. At a time the joint committee~~ 2648  
~~designates, each agency shall appear before the joint committee~~ 2649  
~~and explain why it has determined that such rules are rules~~ 2650  
~~described in division (A)(3)(b) of this section. The joint~~ 2651  
~~committee, by a two-thirds vote of the members present, may~~ 2652  
~~determine that any of such rules are rules described in division~~ 2653  
~~(A)(3)(a) of this section. After the joint committee has made such~~ 2654  
~~a determination relating to a rule, the agency shall thereafter~~ 2655  
~~treat the rule as a rule described in division (A)(3)(a) of this~~ 2656  
~~section.~~ 2657

~~(F) If an agency fails to provide the notice to the joint~~ 2658  
~~committee required under division (E)(2) of this section regarding~~ 2659  
~~a rule or otherwise fails by the rule's review date to take any~~ 2660  
~~action regarding the rule required by comply with this section or~~ 2661  
~~section 119.033 of the Revised Code, the joint committee, by a~~ 2662

majority vote of the members present, may recommend the adoption 2663  
of a concurrent resolution invalidating the rule. The joint 2664  
committee shall not recommend the adoption of such a resolution 2665  
until it has afforded the agency the opportunity to appear before 2666  
the joint committee to show cause why the joint committee should 2667  
not recommend the adoption of such a resolution regarding that 2668  
rule. 2669

(G) If the joint committee recommends adoption of a 2670  
concurrent resolution invalidating a rule under ~~division (E)(3) or~~ 2671  
~~(F) of~~ this section or section 119.033 of the Revised Code, the 2672  
adoption of the concurrent resolution shall be in the manner 2673  
described in division (I) of section 119.03 of the Revised Code. 2674

Sec. 119.033. If an agency, on the basis of its review of a 2675  
rule under section 119.032 of the Revised Code, determines that 2676  
the rule does not need to be amended or rescinded, proceedings 2677  
shall be had as follows: 2678

(A)(1) If, considering only the standard of review specified 2679  
in division (C)(5) of section 119.032 of the Revised Code, the 2680  
rule has an adverse impact on businesses that has not been 2681  
eliminated or reduced, the agency shall prepare a business impact 2682  
analysis that describes its review of the rule under that division 2683  
and that explains why the rule is not being amended or rescinded 2684  
to reduce or eliminate its adverse impact on businesses. If the 2685  
rule does not have an adverse impact on businesses, the agency may 2686  
proceed under division (B) of this section. 2687

(2) The agency shall transmit a copy of the full text of the 2688  
rule and the business impact analysis electronically to the common 2689  
sense initiative office. The office shall make the rule and 2690  
analysis available to the public on its web site under section 2691  
107.62 of the Revised Code. 2692

(3) The agency shall consider any recommendations made by the 2693

office. 2694

(4) Not earlier than the sixteenth business day after 2695  
transmitting the rule and analysis to the office, the agency shall 2696  
either (a) proceed under division (B) of this section or (b) 2697  
commence, under division (D)(1) of section 119.032 of the Revised 2698  
Code, the process of rescinding the rule or of amending the rule 2699  
to incorporate into the rule features the recommendations suggest 2700  
will eliminate or reduce the adverse impact the rule has on 2701  
businesses. If the agency determines to amend or rescind the rule, 2702  
the agency is not subject to the time limit specified in division 2703  
(D)(1) of section 119.032 of the Revised Code. 2704

(5) If the agency receives recommendations from the office, 2705  
and determines not to amend or rescind the rule, the agency shall 2706  
prepare a memorandum of response that explains why the rule is not 2707  
being rescinded or why the recommendations are not being 2708  
incorporated into the rule. 2709

(B) The agency shall assign a new review date to the rule. 2710  
The review date assigned shall be not later than five years after 2711  
the immediately preceding review date pertaining to the rule. If 2712  
the agency assigns a review date that exceeds the five-year 2713  
maximum, the review date is five years after the immediately 2714  
preceding review date. 2715

(C)(1) The agency shall file all the following, in electronic 2716  
form, with the joint committee on agency rule review, the 2717  
secretary of state, and the director of the legislative service 2718  
commission: a copy of the rule specifying its new review date, a 2719  
complete and accurate rule summary and fiscal analysis, and, if 2720  
relevant, a business impact analysis of the rule, any comments 2721  
received from the common sense initiative office, and any 2722  
memorandum of response. An agency may comply with the requirement 2723  
to file a complete and accurate rule summary and fiscal analysis 2724  
by filing a previously prepared rule summary and fiscal analysis, 2725

so long as the previous rule summary and fiscal analysis was 2726  
complete and accurate at the time it was prepared, continues to be 2727  
such a complete and accurate explanation of the rule, and the 2728  
conditions described in division (B)(4), (5), (6), (8), (9), or 2729  
(10) of section 127.18 of the Revised Code, as they relate to the 2730  
rule, have not appreciably changed since the previous rule summary 2731  
and fiscal analysis was prepared. 2732

(2) The joint committee does not have jurisdiction to review, 2733  
and shall reject, the filing of a rule under division (C)(1) of 2734  
this section if, at any time while the rule is in its possession, 2735  
it discovers that the rule has an adverse impact on businesses and 2736  
the agency has not complied with division (A) of this section. The 2737  
joint committee shall electronically return a rule that is 2738  
rejected to the agency, together with any documents that were part 2739  
of the filing. Such a rejection does not preclude the agency from 2740  
refiling the rule under division (C)(1) of this section after 2741  
complying with division (A) of this section. When the filing of a 2742  
rule is rejected under this division, it is as if the filing had 2743  
not been made. 2744

(D) The joint committee shall publish notice of the agency's 2745  
determination not to amend or rescind the rule in the register of 2746  
Ohio for four consecutive weeks after the rule is filed under 2747  
division (C)(1) of this section. 2748

(E) During the ninety-day period after a rule is filed under 2749  
division (C)(1) of this section, but after the four-week notice 2750  
period required by division (D) of this section has ended, the 2751  
joint committee, by a two-thirds vote of members present, may 2752  
recommend adoption of a concurrent resolution invalidating the 2753  
rule if the joint committee finds any of the following: 2754

(1) The agency improperly applied the standards in division 2755  
(C) of section 119.032 of the Revised Code in reviewing the rule 2756  
and in determining that the rule did not need amendment or 2757

rescission. 2758

(2) The rule has an adverse impact on businesses, and the agency has failed to demonstrate through a business impact analysis, recommendations from the common sense initiative office, and a memorandum of response that the regulatory intent of the rule justifies its adverse impact on businesses. 2759  
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(3) If the rule incorporates a text or other material by reference, the agency failed to file, or to deposit or display, the text or other material incorporated by reference as required by section 121.73 or 121.74 of the Revised Code or the incorporation by reference fails to meet the standards stated in section 121.72, 121.75, or 121.76 of the Revised Code. 2764  
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(4) The agency failed to make a proper filing under division (C)(1) of this section. 2770  
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If the joint committee does not take any of these actions during the prescribed time, the rule continues in effect without amendment and shall be next reviewed by the joint committee with reference to the new review date assigned by the agency. 2772  
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**Sec. 121.04.** Offices are created within the several departments as follows: 2776  
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In the department of commerce: 2778

Commissioner of securities; 2779

Superintendent of real estate and professional 2780

licensing;

Superintendent of financial institutions; 2781

State fire marshal; 2782

Superintendent of ~~labor~~ industrial compliance; 2783

Superintendent of liquor control; 2784

Superintendent of unclaimed funds. 2785

In the department of administrative services: 2786

|   |      |
|---|------|
| <del>State architect and engineer;</del>    | 2787 |
| Equal employment opportunity coordinator.   | 2788 |
| In the department of agriculture:           | 2789 |
| Chiefs of divisions as follows:             | 2790 |
| Administration;                             | 2791 |
| Animal health;                              | 2792 |
| Livestock environmental permitting;         | 2793 |
| Dairy;                                      | 2794 |
| Food safety;                                | 2795 |
| Plant health;                               | 2796 |
| Markets;                                    | 2797 |
| Meat inspection;                            | 2798 |
| Consumer protection laboratory;             | 2799 |
| Amusement ride safety;                      | 2800 |
| Enforcement;                                | 2801 |
| Weights and measures.                       | 2802 |
| In the department of natural resources:     | 2803 |
| Chiefs of divisions as follows:             | 2804 |
| Mineral resources management;               | 2805 |
| Oil and gas resources management;           | 2806 |
| Forestry;                                   | 2807 |
| Natural areas and preserves;                | 2808 |
| Wildlife;                                   | 2809 |
| Geological survey;                          | 2810 |
| Parks and recreation;                       | 2811 |
| Watercraft;                                 | 2812 |
| <del>Recycling and litter prevention;</del> | 2813 |
| Soil and water resources;                   | 2814 |
| Engineering.                                | 2815 |
| In the department of insurance:             | 2816 |
| Deputy superintendent of insurance;         | 2817 |

Assistant superintendent of insurance, technical; 2818  
Assistant superintendent of insurance, administrative; 2819  
Assistant superintendent of insurance, research. 2820

**Sec. 121.08.** (A) There is hereby created in the department of 2821  
commerce the position of deputy director of administration. This 2822  
officer shall be appointed by the director of commerce, serve 2823  
under the director's direction, supervision, and control, perform 2824  
the duties the director prescribes, and hold office during the 2825  
director's pleasure. The director of commerce may designate an 2826  
assistant director of commerce to serve as the deputy director of 2827  
administration. The deputy director of administration shall 2828  
perform the duties prescribed by the director of commerce in 2829  
supervising the activities of the division of administration of 2830  
the department of commerce. 2831

(B) Except as provided in section 121.07 of the Revised Code, 2832  
the department of commerce shall have all powers and perform all 2833  
duties vested in the deputy director of administration, the state 2834  
fire marshal, the superintendent of financial institutions, the 2835  
superintendent of real estate and professional licensing, the 2836  
superintendent of liquor control, the superintendent of ~~labor~~ 2837  
industrial compliance, the superintendent of unclaimed funds, and 2838  
the commissioner of securities, and shall have all powers and 2839  
perform all duties vested by law in all officers, deputies, and 2840  
employees of those offices. Except as provided in section 121.07 2841  
of the Revised Code, wherever powers are conferred or duties 2842  
imposed upon any of those officers, the powers and duties shall be 2843  
construed as vested in the department of commerce. 2844

(C)(1) There is hereby created in the department of commerce 2845  
a division of financial institutions, which shall have all powers 2846  
and perform all duties vested by law in the superintendent of 2847  
financial institutions. Wherever powers are conferred or duties 2848  
imposed upon the superintendent of financial institutions, those 2849

powers and duties shall be construed as vested in the division of 2850  
financial institutions. The division of financial institutions 2851  
shall be administered by the superintendent of financial 2852  
institutions. 2853

(2) All provisions of law governing the superintendent of 2854  
financial institutions shall apply to and govern the 2855  
superintendent of financial institutions provided for in this 2856  
section; all authority vested by law in the superintendent of 2857  
financial institutions with respect to the management of the 2858  
division of financial institutions shall be construed as vested in 2859  
the superintendent of financial institutions created by this 2860  
section with respect to the division of financial institutions 2861  
provided for in this section; and all rights, privileges, and 2862  
emoluments conferred by law upon the superintendent of financial 2863  
institutions shall be construed as conferred upon the 2864  
superintendent of financial institutions as head of the division 2865  
of financial institutions. The director of commerce shall not 2866  
transfer from the division of financial institutions any of the 2867  
functions specified in division (C)(2) of this section. 2868

(D) There is hereby created in the department of commerce a 2869  
division of liquor control, which shall have all powers and 2870  
perform all duties vested by law in the superintendent of liquor 2871  
control. Wherever powers are conferred or duties are imposed upon 2872  
the superintendent of liquor control, those powers and duties 2873  
shall be construed as vested in the division of liquor control. 2874  
The division of liquor control shall be administered by the 2875  
superintendent of liquor control. 2876

(E) The director of commerce shall not be interested, 2877  
directly or indirectly, in any firm or corporation which is a 2878  
dealer in securities as defined in sections 1707.01 and 1707.14 of 2879  
the Revised Code, or in any firm or corporation licensed under 2880  
sections 1321.01 to 1321.19 of the Revised Code. 2881

(F) The director of commerce shall not have any official 2882  
connection with a savings and loan association, a savings bank, a 2883  
bank, a bank holding company, a savings and loan association 2884  
holding company, a consumer finance company, or a credit union 2885  
that is under the supervision of the division of financial 2886  
institutions, or a subsidiary of any of the preceding entities, or 2887  
be interested in the business thereof. 2888

(G) There is hereby created in the state treasury the 2889  
division of administration fund. The fund shall receive 2890  
assessments on the operating funds of the department of commerce 2891  
in accordance with procedures prescribed by the director of 2892  
commerce and approved by the director of budget and management. 2893  
All operating expenses of the division of administration shall be 2894  
paid from the division of administration fund. 2895

(H) There is hereby created in the department of commerce a 2896  
division of real estate and professional licensing, which shall be 2897  
under the control and supervision of the director of commerce. The 2898  
division of real estate and professional licensing shall be 2899  
administered by the superintendent of real estate and professional 2900  
licensing. The superintendent of real estate and professional 2901  
licensing shall exercise the powers and perform the functions and 2902  
duties delegated to the superintendent under Chapters 4735., 2903  
4763., and 4767. of the Revised Code. 2904

(I) There is hereby created in the department of commerce a 2905  
division of ~~labor~~ industrial compliance, which shall have all 2906  
powers and perform all duties vested by law in the superintendent 2907  
of ~~labor~~ industrial compliance. Wherever powers are conferred or 2908  
duties imposed upon the superintendent of ~~labor~~ industrial 2909  
compliance, those powers and duties shall be construed as vested 2910  
in the division of ~~labor~~ industrial compliance. The division of 2911  
~~labor~~ industrial compliance shall be under the control and 2912  
supervision of the director of commerce and be administered by the 2913

superintendent of ~~labor~~ industrial compliance. 2914

(J) There is hereby created in the department of commerce a 2915  
division of unclaimed funds, which shall have all powers and 2916  
perform all duties delegated to or vested by law in the 2917  
superintendent of unclaimed funds. Wherever powers are conferred 2918  
or duties imposed upon the superintendent of unclaimed funds, 2919  
those powers and duties shall be construed as vested in the 2920  
division of unclaimed funds. The division of unclaimed funds shall 2921  
be under the control and supervision of the director of commerce 2922  
and shall be administered by the superintendent of unclaimed 2923  
funds. The superintendent of unclaimed funds shall exercise the 2924  
powers and perform the functions and duties delegated to the 2925  
superintendent by the director of commerce under section 121.07 2926  
and Chapter 169. of the Revised Code, and as may otherwise be 2927  
provided by law. 2928

(K) The department of commerce or a division of the 2929  
department created by the Revised Code that is acting with 2930  
authorization on the department's behalf may request from the 2931  
bureau of criminal identification and investigation pursuant to 2932  
section 109.572 of the Revised Code, or coordinate with 2933  
appropriate federal, state, and local government agencies to 2934  
accomplish, criminal records checks for the persons whose 2935  
identities are required to be disclosed by an applicant for the 2936  
issuance or transfer of a permit, license, certificate of 2937  
registration, or certification issued or transferred by the 2938  
department or division. At or before the time of making a request 2939  
for a criminal records check, the department or division may 2940  
require any person whose identity is required to be disclosed by 2941  
an applicant for the issuance or transfer of such a license, 2942  
permit, certificate of registration, or certification to submit to 2943  
the department or division valid fingerprint impressions in a 2944  
format and by any media or means acceptable to the bureau of 2945

criminal identification and investigation and, when applicable, 2946  
the federal bureau of investigation. The department or division 2947  
may cause the bureau of criminal identification and investigation 2948  
to conduct a criminal records check through the federal bureau of 2949  
investigation only if the person for whom the criminal records 2950  
check would be conducted resides or works outside of this state or 2951  
has resided or worked outside of this state during the preceding 2952  
five years, or if a criminal records check conducted by the bureau 2953  
of criminal identification and investigation within this state 2954  
indicates that the person may have a criminal record outside of 2955  
this state. 2956

In the case of a criminal records check under section 109.572 2957  
of the Revised Code, the department or division shall forward to 2958  
the bureau of criminal identification and investigation the 2959  
requisite form, fingerprint impressions, and fee described in 2960  
division (C) of that section. When requested by the department or 2961  
division in accordance with this section, the bureau of criminal 2962  
identification and investigation shall request from the federal 2963  
bureau of investigation any information it has with respect to the 2964  
person who is the subject of the requested criminal records check 2965  
and shall forward the requisite fingerprint impressions and 2966  
information to the federal bureau of investigation for that 2967  
criminal records check. After conducting a criminal records check 2968  
or receiving the results of a criminal records check from the 2969  
federal bureau of investigation, the bureau of criminal 2970  
identification and investigation shall provide the results to the 2971  
department or division. 2972

The department or division may require any person about whom 2973  
a criminal records check is requested to pay to the department or 2974  
division the amount necessary to cover the fee charged to the 2975  
department or division by the bureau of criminal identification 2976  
and investigation under division (C)(3) of section 109.572 of the 2977

|   |      |
|---|------|
| Revised Code, including, when applicable, any fee for a criminal              | 2978 |
| records check conducted by the federal bureau of investigation.               | 2979 |
| <br>  |      |
| <b>Sec. 121.083.</b> The superintendent of <del>labor</del> <u>industrial</u> | 2980 |
| <u>compliance</u> in the department of commerce shall do all of the           | 2981 |
| following:  | 2982 |
| <br>  |      |
| (A) Administer and enforce the general laws of this state                     | 2983 |
| pertaining to buildings, pressure piping, boilers, bedding,                   | 2984 |
| upholstered furniture, and stuffed toys, steam engineering,                   | 2985 |
| elevators, plumbing, licensed occupations regulated by the                    | 2986 |
| department, and travel agents, as they apply to plans review,                 | 2987 |
| inspection, code enforcement, testing, licensing, registration,               | 2988 |
| and certification.  | 2989 |
| <br>  |      |
| (B) Exercise the powers and perform the duties delegated to                   | 2990 |
| the superintendent by the director of commerce under Chapters                 | 2991 |
| 4109., 4111., and 4115. of the Revised Code.                                  | 2992 |
| <br>  |      |
| (C) Collect and collate statistics as are necessary.                          | 2993 |
| <br>  |      |
| (D) Examine and license persons who desire to act as steam                    | 2994 |
| engineers, to operate steam boilers, and to act as inspectors of              | 2995 |
| steam boilers, provide for the scope, conduct, and time of such               | 2996 |
| examinations, provide for, regulate, and enforce the renewal and              | 2997 |
| revocation of such licenses, inspect and examine steam boilers and            | 2998 |
| make, publish, and enforce rules and orders for the construction,             | 2999 |
| installation, inspection, and operation of steam boilers, and do,             | 3000 |
| require, and enforce all things necessary to make such                        | 3001 |
| examination, inspection, and requirement efficient.                           | 3002 |
| <br>  |      |
| (E) Rent and furnish offices as needed in cities in this                      | 3003 |
| state for the conduct of its affairs.   | 3004 |
| <br>  |      |
| (F) Oversee a chief of construction and compliance, a chief                   | 3005 |
| of operations and maintenance, a chief of licensing and                       | 3006 |
| certification, a chief of worker protection, and other designees              | 3007 |

appointed by the director to perform the duties described in this 3008  
section. 3009

(G) Enforce the rules the board of building standards adopts 3010  
pursuant to division (A)(2) of section 4104.43 of the Revised Code 3011  
under the circumstances described in division (D) of that section. 3012

(H) Accept submissions, establish a fee for submissions, and 3013  
review submissions of certified welding and brazing procedure 3014  
specifications, procedure qualification records, and performance 3015  
qualification records for building services piping as required by 3016  
section 4104.44 of the Revised Code. 3017

**Sec. 121.084.** (A) All moneys collected under sections 3018  
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 3019  
4169.03, 4171.04, and 5104.051 of the Revised Code, and any other 3020  
moneys collected by the division of ~~labor~~ industrial compliance 3021  
shall be paid into the state treasury to the credit of the ~~labor~~ 3022  
industrial compliance operating fund, which is hereby created. The 3023  
department of commerce shall use the moneys in the fund for paying 3024  
the operating expenses of the division and the administrative 3025  
assessment described in division (B) of this section. 3026

(B) The director of commerce, with the approval of the 3027  
director of budget and management, shall prescribe procedures for 3028  
assessing the ~~labor~~ industrial compliance operating fund a 3029  
proportionate share of the administrative costs of the department 3030  
of commerce. The assessment shall be made in accordance with those 3031  
procedures and be paid from the ~~labor~~ industrial compliance 3032  
operating fund to the division of administration fund created in 3033  
section 121.08 of the Revised Code. 3034

**Sec. 121.35.** (A) Subject to division (B) of this section, the 3035  
following state agencies shall collaborate to revise and make more 3036  
uniform the eligibility standards and eligibility determination 3037

|  |      |
|--|------|
| <u>procedures of programs the state agencies administer:</u>                 | 3038 |
|  | 3039 |
| <u>(1) The department of aging;</u>  | 3040 |
| <u>(2) The department of alcohol and drug addiction services;</u>            | 3041 |
| <u>(3) The department of development;</u>                                    | 3042 |
| <u>(4) The department of developmental disabilities;</u>                     | 3043 |
| <u>(5) The department of education;</u>                                      | 3044 |
| <u>(6) The department of health;</u>   | 3045 |
| <u>(7) The department of job and family services;</u>                        | 3046 |
| <u>(8) The department of mental health;</u>                                  | 3047 |
| <u>(9) The rehabilitation services commission.</u>                           | 3048 |
| <u>(B) In revising eligibility standards and eligibility</u>                 | 3049 |
| <u>determination procedures, a state agency shall not make any</u>           | 3050 |
| <u>program's eligibility standards or eligibility determination</u>          | 3051 |
| <u>procedures inconsistent with state or federal law. To the extent</u>      | 3052 |
| <u>authorized by state and federal law, the revisions may provide for</u>    | 3053 |
| <u>the state agencies to share administrative operations.</u>                | 3054 |
| <br>   |      |
| <b>Sec. 123.01.</b> (A) The department of administrative services,           | 3055 |
| in addition to those powers enumerated in Chapters 124. and 125.             | 3056 |
| of the Revised Code and provided elsewhere by law, shall exercise            | 3057 |
| the following powers:  | 3058 |
| <br>   |      |
| (1) <del>To prepare, or contract to be prepared, by licensed</del>           | 3059 |
| <del>engineers or architects, surveys, general and detailed plans,</del>     | 3060 |
| <del>specifications, bills of materials, and estimates of cost for any</del> | 3061 |
| <del>projects, improvements, or public buildings to be constructed by</del>  | 3062 |
| <del>state agencies that may be authorized by legislative</del>              | 3063 |
| <del>appropriations or any other funds made available therefor,</del>        | 3064 |
| <del>provided that the construction of the projects, improvements, or</del>  | 3065 |

~~public buildings is a statutory duty of the department. This 3066  
section does not require the independent employment of an 3067  
architect or engineer as provided by section 153.01 of the Revised 3068  
Code in the cases to which that section applies nor affect or 3069  
alter the existing powers of the director of transportation. 3070~~

~~(2) To have general supervision over the construction of any 3071  
projects, improvements, or public buildings constructed for a 3072  
state agency and over the inspection of materials previous to 3073  
their incorporation into those projects, improvements, or 3074  
buildings; 3075~~

~~(3) To make contracts for and supervise the construction of 3076  
any projects and improvements or the construction and repair of 3077  
buildings under the control of a state agency, except contracts 3078  
for the repair of buildings under the management and control of 3079  
the departments of public safety, job and family services, mental 3080  
health, developmental disabilities, rehabilitation and correction, 3081  
and youth services, the bureau of workers' compensation, the 3082  
rehabilitation services commission, and boards of trustees of 3083  
educational and benevolent institutions and except contracts for 3084  
the construction of projects that do not require the issuance of a 3085  
building permit or the issuance of a certificate of occupancy and 3086  
that are necessary to remediate conditions at a hazardous waste 3087  
facility, solid waste facility, or other location at which the 3088  
director of environmental protection has reason to believe there 3089  
is a substantial threat to public health or safety or the 3090  
environment. These contracts shall be made and entered into by the 3091  
directors of public safety, job and family services, mental 3092  
health, developmental disabilities, rehabilitation and correction, 3093  
and youth services, the administrator of workers' compensation, 3094  
the rehabilitation services commission, the boards of trustees of 3095  
such institutions, and the director of environmental protection, 3096  
respectively. All such contracts may be in whole or in part on 3097~~

~~unit price basis of maximum estimated cost, with payment computed 3098  
and made upon actual quantities or units. 3099~~

~~(4) To prepare and suggest comprehensive plans for the 3100  
development of grounds and buildings under the control of a state 3101  
agency; 3102~~

~~(5)(2) To acquire, by purchase, gift, devise, lease, or 3103  
grant, all real estate required by a state agency, in the exercise 3104  
of which power the department may exercise the power of eminent 3105  
domain, in the manner provided by sections 163.01 to 163.22 of the 3106  
Revised Code; 3107~~

~~(6) To make and provide all plans, specifications, and models 3108  
for the construction and perfection of all systems of sewerage, 3109  
drainage, and plumbing for the state in connection with buildings 3110  
and grounds under the control of a state agency; 3111~~

~~(7)(3) To erect, supervise, and maintain all public monuments 3112  
and memorials erected by the state, except where the supervision 3113  
and maintenance is otherwise provided by law; 3114~~

~~(8)(4) To procure, by lease, storage accommodations for a 3115  
state agency; 3116~~

~~(9)(5) To lease or grant easements or licenses for 3117  
unproductive and unused lands or other property under the control 3118  
of a state agency. Such leases, easements, or licenses ~~shall~~ may 3119  
be granted to any person or entity, shall be for a period not to 3120  
exceed fifteen years, and shall be executed for the state by the 3121  
director of administrative services ~~and the governor and shall be~~ 3122  
~~approved as to form by the attorney general, provided that leases,~~ 3123  
~~easements, or licenses may be granted to any county, township,~~ 3124  
~~municipal corporation, port authority, water or sewer district,~~ 3125  
~~school district, library district, health district, park district,~~ 3126  
~~soil and water conservation district, conservancy district, or~~ 3127  
~~other political subdivision or taxing district, or any agency of~~ 3128~~

~~the United States government, for the exclusive use of that~~ 3129  
~~agency, political subdivision, or taxing district, without any~~ 3130  
~~right of sublease or assignment, for a period not to exceed~~ 3131  
~~fifteen years, and,~~ provided that the director shall grant leases, 3132  
easements, or licenses of university land for periods not to 3133  
exceed twenty-five years for purposes approved by the respective 3134  
university's board of trustees wherein the uses are compatible 3135  
with the uses and needs of the university and may grant leases of 3136  
university land for periods not to exceed forty years for purposes 3137  
approved by the respective university's board of trustees pursuant 3138  
to section ~~123.77~~ 123.17 of the Revised Code. 3139

~~(10)~~(6) To lease space for the use of a state agency; 3140

~~(11)~~(7) To have general supervision and care of the 3141  
storerooms, offices, and buildings leased for the use of a state 3142  
agency; 3143

~~(12)~~(8) To exercise general custodial care of all real 3144  
property of the state; 3145

~~(13)~~(9) To assign and group together state offices in any 3146  
city in the state and to establish, in cooperation with the state 3147  
agencies involved, rules governing space requirements for office 3148  
or storage use; 3149

~~(14)~~(10) To lease for a period not to exceed forty years, 3150  
pursuant to a contract providing for the construction thereof 3151  
under a lease-purchase plan, buildings, structures, and other 3152  
improvements for any public purpose, and, in conjunction 3153  
therewith, to grant leases, easements, or licenses for lands under 3154  
the control of a state agency for a period not to exceed forty 3155  
years. The lease-purchase plan shall provide that at the end of 3156  
the lease period, the buildings, structures, and related 3157  
improvements, together with the land on which they are situated, 3158  
shall become the property of the state without cost. 3159

(a) Whenever any building, structure, or other improvement is 3160  
to be so leased by a state agency, the department shall retain 3161  
either basic plans, specifications, bills of materials, and 3162  
estimates of cost with sufficient detail to afford bidders all 3163  
needed information or, alternatively, all of the following plans, 3164  
details, bills of materials, and specifications: 3165

(i) Full and accurate plans suitable for the use of mechanics 3166  
and other builders in the improvement; 3167

(ii) Details to scale and full sized, so drawn and 3168  
represented as to be easily understood; 3169

(iii) Accurate bills showing the exact quantity of different 3170  
kinds of material necessary to the construction; 3171

(iv) Definite and complete specifications of the work to be 3172  
performed, together with such directions as will enable a 3173  
competent mechanic or other builder to carry them out and afford 3174  
bidders all needed information; 3175

(v) A full and accurate estimate of each item of expense and 3176  
of the aggregate cost thereof. 3177

(b) The department shall give public notice, in such 3178  
newspaper, in such form, and with such phraseology as the director 3179  
of administrative services prescribes, published once each week 3180  
for four consecutive weeks, of the time when and place where bids 3181  
will be received for entering into an agreement to lease to a 3182  
state agency a building, structure, or other improvement. The last 3183  
publication shall be at least eight days preceding the day for 3184  
opening the bids. The bids shall contain the terms upon which the 3185  
builder would propose to lease the building, structure, or other 3186  
improvement to the state agency. The form of the bid approved by 3187  
the department shall be used, and a bid is invalid and shall not 3188  
be considered unless that form is used without change, alteration, 3189  
or addition. Before submitting bids pursuant to this section, any 3190

builder shall comply with Chapter 153. of the Revised Code. 3191

(c) On the day and at the place named for receiving bids for 3192  
entering into lease agreements with a state agency, the director 3193  
of administrative services shall open the bids and shall publicly 3194  
proceed immediately to tabulate the bids upon duplicate sheets. No 3195  
lease agreement shall be entered into until the bureau of workers' 3196  
compensation has certified that the person to be awarded the lease 3197  
agreement has complied with Chapter 4123. of the Revised Code, 3198  
until, if the builder submitting the lowest and best bid is a 3199  
foreign corporation, the secretary of state has certified that the 3200  
corporation is authorized to do business in this state, until, if 3201  
the builder submitting the lowest and best bid is a person 3202  
nonresident of this state, the person has filed with the secretary 3203  
of state a power of attorney designating the secretary of state as 3204  
its agent for the purpose of accepting service of summons in any 3205  
action brought under Chapter 4123. of the Revised Code, and until 3206  
the agreement is submitted to the attorney general and the 3207  
attorney general's approval is certified thereon. Within thirty 3208  
days after the day on which the bids are received, the department 3209  
shall investigate the bids received and shall determine that the 3210  
bureau and the secretary of state have made the certifications 3211  
required by this section of the builder who has submitted the 3212  
lowest and best bid. Within ten days of the completion of the 3213  
investigation of the bids, the department shall award the lease 3214  
agreement to the builder who has submitted the lowest and best bid 3215  
and who has been certified by the bureau and secretary of state as 3216  
required by this section. If bidding for the lease agreement has 3217  
been conducted upon the basis of basic plans, specifications, 3218  
bills of materials, and estimates of costs, upon the award to the 3219  
builder the department, or the builder with the approval of the 3220  
department, shall appoint an architect or engineer licensed in 3221  
this state to prepare such further detailed plans, specifications, 3222  
and bills of materials as are required to construct the building, 3223

structure, or improvement. The department shall adopt such rules 3224  
as are necessary to give effect to this section. The department 3225  
may reject any bid. Where there is reason to believe there is 3226  
collusion or combination among bidders, the bids of those 3227  
concerned therein shall be rejected. 3228

~~(15)~~(11) To acquire by purchase, gift, devise, or grant and 3229  
to transfer, lease, or otherwise dispose of all real property 3230  
required to assist in the development of a conversion facility as 3231  
defined in section 5709.30 of the Revised Code as that section 3232  
existed before its repeal by Amended Substitute House Bill 95 of 3233  
the 125th general assembly; 3234

~~(16)~~(12) To lease for a period not to exceed forty years, 3235  
notwithstanding any other division of this section, the 3236  
state-owned property located at 408-450 East Town Street, 3237  
Columbus, Ohio, formerly the state school for the deaf, to a 3238  
developer in accordance with this section. "Developer," as used in 3239  
this section, has the same meaning as in section 123.77 of the 3240  
Revised Code. 3241

Such a lease shall be for the purpose of development of the 3242  
land for use by senior citizens by constructing, altering, 3243  
renovating, repairing, expanding, and improving the site as it 3244  
existed on June 25, 1982. A developer desiring to lease the land 3245  
shall prepare for submission to the department a plan for 3246  
development. Plans shall include provisions for roads, sewers, 3247  
water lines, waste disposal, water supply, and similar matters to 3248  
meet the requirements of state and local laws. The plans shall 3249  
also include provision for protection of the property by insurance 3250  
or otherwise, and plans for financing the development, and shall 3251  
set forth details of the developer's financial responsibility. 3252

The department may employ, as employees or consultants, 3253  
persons needed to assist in reviewing the development plans. Those 3254  
persons may include attorneys, financial experts, engineers, and 3255

other necessary experts. The department shall review the 3256  
development plans and may enter into a lease if it finds all of 3257  
the following: 3258

(a) The best interests of the state will be promoted by 3259  
entering into a lease with the developer; 3260

(b) The development plans are satisfactory; 3261

(c) The developer has established the developer's financial 3262  
responsibility and satisfactory plans for financing the 3263  
development. 3264

The lease shall contain a provision that construction or 3265  
renovation of the buildings, roads, structures, and other 3266  
necessary facilities shall begin within one year after the date of 3267  
the lease and shall proceed according to a schedule agreed to 3268  
between the department and the developer or the lease will be 3269  
terminated. The lease shall contain such conditions and 3270  
stipulations as the director considers necessary to preserve the 3271  
best interest of the state. Moneys received by the state pursuant 3272  
to this lease shall be paid into the general revenue fund. The 3273  
lease shall provide that at the end of the lease period the 3274  
buildings, structures, and related improvements shall become the 3275  
property of the state without cost. 3276

~~(17)~~(13) To manage the use of space owned and controlled by 3277  
the department, including space in property under the jurisdiction 3278  
of the Ohio building authority, by doing all of the following: 3279

(a) Biennially implementing, by state agency location, a 3280  
census of agency employees assigned space; 3281

(b) Periodically in the discretion of the director of 3282  
administrative services: 3283

(i) Requiring each state agency to categorize the use of 3284  
space allotted to the agency between office space, common areas, 3285

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| storage space, and other uses, and to report its findings to the department;  | 3286<br>3287   |
| (ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.  | 3288<br>3289<br>3290   |
| (iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;   | 3291<br>3292   |
| (iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.  | 3293<br>3294   |
| (c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility.  | 3295<br>3296<br>3297<br>3298   |
| <u>(14) To adopt rules to ensure that energy efficiency and conservation is 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. The department may require minimum energy efficiency standards for purchased products and equipment based on federal testing and labeling if available or on standards developed by the department. When possible, the rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code.</u> | 3299<br>3300<br>3301<br>3302<br>3303<br>3304<br>3305<br>3306<br>3307<br>3308<br>3309 |
| <u>(15) To ensure energy efficient and energy conserving purchasing practices by doing all of the following:</u>  | 3310<br>3311   |
| <u>(a) Identifying available energy efficiency and conservation opportunities;</u>  | 3312<br>3313   |
| <u>(b) Providing for interchange of information among purchasing agencies;</u>  | 3314<br>3315   |

(c) Identifying laws, policies, rules, and procedures that should be modified; 3316  
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(d) 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 the government; 3318  
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(e) Providing technical assistance and training to state employees involved in the purchasing process; 3323  
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(f) Working with the department of development to make recommendations regarding planning and implementation of purchasing policies and procedures that are supportive of energy efficiency and conservation. 3325  
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(16) To 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 to ensure that all of the passenger automobiles they acquire 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 the department shall prescribe by rule. The department shall adopt the rule prior to the beginning of the fiscal year, in accordance with the average fuel economy standards established by federal law for passenger automobiles manufactured during the model year that begins during the fiscal year. 3329  
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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 the total number of passenger vehicles acquired during the fiscal year, 3342  
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except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by a sum of terms, each of which is a fraction created by dividing 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 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 (A)(16) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.

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

(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;

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

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and

buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to be made repairs to all property owned or under the control of the patrol;

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

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

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

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health, developmental disabilities, and rehabilitation and correction; buildings of educational and benevolent institutions under the management and control of boards of trustees; and purchases or leases for, and the custody and

repair of, office space used for the purposes of the joint 3410  
legislative ethics committee are not subject to the control and 3411  
jurisdiction of the department of administrative services. 3412

If the joint legislative ethics committee so requests, the 3413  
committee and the director of administrative services may enter 3414  
into a contract under which the department of administrative 3415  
services agrees to perform any services requested by the committee 3416  
that the department is authorized under this section to perform. 3417

(D) Any instrument by which real property is acquired 3418  
pursuant to this section shall identify the agency of the state 3419  
that has the use and benefit of the real property as specified in 3420  
section 5301.012 of the Revised Code. 3421

**Sec. ~~123.04~~ 123.02.** The director of administrative services 3422  
shall be appointed superintendent of public works and shall have 3423  
the care and control of the public works of the state and shall 3424  
protect, maintain, and keep them in repair. 3425

Subject to the approval of the governor, the director may 3426  
purchase on behalf of the state such real or personal property, 3427  
rights, or privileges as are necessary, in the director's 3428  
judgment, to acquire in the maintenance of the public works or 3429  
their improvement. 3430

Any instrument by which the state or an agency of the state 3431  
acquires real property pursuant to this section shall identify the 3432  
agency of the state that has the use and benefit of the real 3433  
property as specified in section 5301.012 of the Revised Code. 3434

**Sec. ~~123.07~~ 123.03.** The director of administrative services 3435  
may maintain an action in the name of the state for violations of 3436  
any law relating to the public works for an injury to property 3437  
pertaining to the public works, or for any other cause which is 3438  
necessary in the performance of ~~his~~ the director's duties. 3439

**Sec. ~~123.09~~ 123.04.** The director of administrative services 3440  
shall have supervision of the public works of the state and shall 3441  
make such rules and regulations for the ~~improvement~~, maintenance, 3442  
and operation of the public works as are necessary. 3443

**Sec. ~~123.10~~ 123.05.** (A) The director of administrative 3444  
services shall regulate the rate of tolls to be collected on the 3445  
public works of the state, and shall fix all rentals and collect 3446  
all tolls, rents, fines, commissions, fees, and other revenues 3447  
arising from any source in the public works, including the sale, 3448  
~~construction~~, purchase, or rental of property, except that the 3449  
director shall not collect a commission or fee from a real estate 3450  
broker or the private owner when real property is leased or rented 3451  
to the state. 3452

~~(B) There is hereby created in the state treasury the state 3453  
architect's fund which shall consist of money received by the 3454  
department of administrative services under division (A) of this 3455  
section, fees paid under section 123.17 of the Revised Code, 3456  
transfers of money to the fund authorized by the general assembly, 3457  
and such amount of the investment earnings of the administrative 3458  
building fund created in division (F) of section 154.24 of the 3459  
Revised Code as the director of budget and management determines 3460  
to be appropriate and in excess of the amounts required to meet 3461  
estimated federal arbitrage rebate requirements. Money in the fund 3462  
shall be used by the department of administrative services for the 3463  
following purposes:~~ 3464

~~(1) To pay personnel and other administrative expenses of the 3465  
department;~~ 3466

~~(2) To pay the cost of conducting evaluations of public 3467  
works;~~ 3468

~~(3) To pay the cost of building design specifications;~~ 3469

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| <del>(4) To pay the cost of providing project management services;</del>             | 3470 |
| <del>(5) To pay the cost of operating the local administration</del>                 | 3471 |
| <del>competency certification program prescribed by section 123.17 of</del>          | 3472 |
| <del>the Revised Code;</del>   | 3473 |
| <del>(6) Any other purposes that the director of administrative</del>                | 3474 |
| <del>services determines to be necessary for the department to execute</del>         | 3475 |
| <del>its duties under this chapter.</del>  | 3476 |
| <br>   |      |
| <b>Sec. <del>123.024</del> <u>123.06</u>.</b> (A) The department of administrative   | 3477 |
| services shall assign and make available, at state expense,                          | 3478 |
| suitable office space in state-owned facilities to accommodate the                   | 3479 |
| office operations of the state headquarters of both of the                           | 3480 |
| following:   | 3481 |
| <br>   |      |
| (1) All veterans organizations in this state that either are                         | 3482 |
| incorporated and issued a charter by the congress of the United                      | 3483 |
| States or are recognized by the United States department of                          | 3484 |
| veterans affairs;  | 3485 |
| <br>   |      |
| (2) The auxiliary organizations of veterans organizations                            | 3486 |
| described in division (A)(1) of this section.  | 3487 |
| <br>   |      |
| (B) The department may situate office space for each                                 | 3488 |
| auxiliary organization of a veterans organization with or near the                   | 3489 |
| office space of that veterans organization.  | 3490 |
| <br>   |      |
| <b>Sec. <del>123.11</del> <u>123.07</u>.</b> Each state agency and any county,       | 3491 |
| township, or municipal corporation owning, leasing, or controlling                   | 3492 |
| the operation of parking spaces for use by its employees may                         | 3493 |
| provide preferential parking for those vehicles used in carpools,                    | 3494 |
| vanpools, and buspools. The department of administrative services                    | 3495 |
| shall coordinate the efforts of the state agencies in providing                      | 3496 |
| preferential parking for such vehicles.  | 3497 |
| <br>   |      |
| <b>Sec. <del>123.13</del> <u>123.08</u>.</b> The director of administrative services | 3498 |

shall appoint such ~~foreman~~ forepersons, ~~patrolmen~~ patrol officers, 3499  
lock tenders, inspectors, engineers, and all other employees as 3500  
are necessary for the ~~improvement~~, maintenance, and operation of 3501  
the public works. They shall be assigned to duty under the 3502  
supervision of the director, under rules and regulations 3503  
prescribed by ~~him~~ the director. Any such employee, when deemed 3504  
necessary by the director, shall give proper bond to the state, 3505  
conditioned for the faithful performance of ~~his~~ the employee's 3506  
duties. Such bonds may, in the discretion of the director, be 3507  
individual, schedule, or blanket bonds. 3508

**Sec. ~~123.14~~ 123.09.** All claims against the state for the 3509  
~~improvement~~, repair, maintenance, and operation of the public 3510  
works of Ohio, including salary and expenses of all employees 3511  
engaged in such work, shall be paid upon the order of the director 3512  
of administrative services. 3513

**Sec. ~~123.15~~ 123.10.** (A) As used in this section and section 3514  
~~123.21~~ 123.11 of the Revised Code, "public exigency" means an 3515  
injury or obstruction that occurs in any public works of the state 3516  
maintained by the director of administrative services and that 3517  
materially impairs its immediate use or places in jeopardy 3518  
property adjacent to it; an immediate danger of such an injury or 3519  
obstruction; or an injury or obstruction, or an immediate danger 3520  
of an injury or obstruction, that occurs ~~during the process of~~ 3521  
~~construction of~~ in any public works of the state maintained by the 3522  
director of administrative services and that materially impairs 3523  
its immediate use or places in jeopardy property adjacent to it. 3524

(B) ~~The~~ When a declaration of public exigency is issued 3525  
pursuant to division (C) of this section, the director of 3526  
administrative services may request the Ohio facilities 3527  
construction commission to enter into contracts with proper 3528  
persons for the performance of labor, the furnishing of materials, 3529

or the construction of any structures and buildings necessary to 3530  
the maintenance, control, and management of the public works of 3531  
the state or any part of those public works. ~~Except as provided in~~ 3532  
~~division (C) of this section for public exigencies, the director~~ 3533  
~~shall advertise, award, and administer those~~ Any contracts in 3534  
~~accordance with the requirements~~ awarded for the work performed 3535  
pursuant to the declaration of a public exigency may be awarded 3536  
without competitive bidding or selection as set forth in Chapter 3537  
153. of the Revised Code. 3538

(C) The director of administrative services may issue a 3539  
declaration of a public exigency on the director's own initiative 3540  
or upon the request of the director of any state agency. The 3541  
director's declaration shall identify the specific injury, 3542  
obstruction, or danger that is the subject of the declaration and 3543  
shall set forth a dollar limitation for the repair, removal, or 3544  
prevention of that exigency under the declaration. 3545

Before any project to repair, remove, or prevent a public 3546  
exigency under the director's declaration may begin, the director 3547  
shall send notice of the project, in writing, to the director of 3548  
budget and management and to the members of the controlling board. 3549  
That notice shall detail the project to be undertaken to address 3550  
the public exigency and shall include a copy of the director's 3551  
declaration that establishes the monetary limitations on that 3552  
project. 3553

**Sec. ~~123.21~~ 123.11.** When a public exigency, as defined in 3554  
division (A) of section ~~123.15~~ 123.10 of the Revised Code, exists, 3555  
the director of administrative services may take possession of 3556  
lands and use them, or materials and other property necessary for 3557  
the maintenance, protection, or repair of the public works, in 3558  
accordance with sections 163.01 to 163.22 of the Revised Code. 3559

**Sec. ~~123.46~~ 123.12.** No land lease or sale of state lands 3560  
shall be made by the director of administrative services except 3561  
upon the written approval of the governor and the attorney 3562  
general. 3563

**Sec. ~~123.47~~ 123.13.** Except as otherwise provided by law, the 3564  
director of administrative services shall have the custody and 3565  
control of the books, records, papers, surveys, maps, plats, and 3566  
documents that pertain to any of the public works of this state. 3567

**Sec. ~~123.48~~ 123.14.** The director of administrative services 3568  
shall make an annual report to the governor containing a statement 3569  
of the expenses of the public works under ~~his~~ the director's 3570  
supervision during the preceding year, setting forth an account of 3571  
moneys expended on each of the public works during the year, and 3572  
such other information and records as ~~he~~ the director deems 3573  
proper. Such report shall contain a statement of the moneys 3574  
received from all sources and an estimate of the appropriations 3575  
necessary to maintain the public works and keep them in repair. 3576  
The report shall also contain a list of all persons regularly 3577  
employed, together with the salary, compensation, or allowance 3578  
paid each. 3579

~~He~~ The director shall further from time to time when ~~he~~ the 3580  
director deems it necessary, or when called upon by the governor, 3581  
to do so, make such other reports as are proper, touching on the 3582  
general condition and welfare of the public works and the 3583  
drainage, leaseholds, and water powers incident thereto. 3584

**Sec. ~~123.49~~ 123.15.** The department of administrative services 3585  
may adopt, amend, and rescind rules pertaining to lands under the 3586  
supervision of the department in accordance with Chapter 119. of 3587  
the Revised Code. 3588

Sec. 123.152. (A) As used in this section, "EDGE business 3589  
enterprise" means a sole proprietorship, association, partnership, 3590  
corporation, limited liability corporation, or joint venture 3591  
certified as a participant in the encouraging diversity, growth, 3592  
and equity program by the director of administrative services 3593  
under this section of the Revised Code. 3594

(B) The director of administrative services shall establish a 3595  
business assistance program known as the encouraging diversity, 3596  
growth, and equity program and shall adopt rules in accordance 3597  
with Chapter 119. of the Revised Code to administer the program 3598  
that do all of the following: 3599

(1) Establish procedures by which a sole proprietorship, 3600  
association, partnership, corporation, limited liability 3601  
corporation, or joint venture may apply for certification as an 3602  
EDGE business enterprise; 3603

(2) Except as provided in division (B)(14) of this section, 3604  
establish agency procurement goals for contracting with EDGE 3605  
business enterprises in the award of contracts under Chapters 3606  
123., 125., and 153. of the Revised Code based on the availability 3607  
of eligible program participants by region or geographic area, as 3608  
determined by the director, and by standard industrial code or 3609  
equivalent code classification. 3610

(a) Goals established under division (B)(2) of this section 3611  
shall be based on a percentage level of participation and a 3612  
percentage of contractor availability. 3613

(b) Goals established under division (B)(2) of this section 3614  
shall be applied at the contract level, relative to an overall 3615  
dollar goal for each state agency, in accordance with the 3616  
following certification categories: construction, architecture, 3617  
and engineering; professional services; goods and services; and 3618  
information technology services. 3619

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| (3) Establish a system of certifying EDGE business enterprises based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the director:   | 3620<br>3621<br>3622<br>3623                 |
| (a) Relative wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;   | 3624<br>3625<br>3626                         |
| (b) Social disadvantage based on any of the following:   | 3627   |
| (i) A rebuttable presumption when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of American society, location in an area of high unemployment; | 3628<br>3629<br>3630<br>3631<br>3632<br>3633 |
| (ii) Some other demonstration of personal disadvantage not common to other small businesses;   | 3634<br>3635                                 |
| (iii) By business location in a qualified census tract.  | 3636   |
| (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.   | 3637<br>3638<br>3639<br>3640                 |
| (4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;  | 3641<br>3642<br>3643                         |
| (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;   | 3644<br>3645<br>3646<br>3647                 |
| (6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to  | 3648<br>3649                                 |

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|---|------|
| participate in the procurement of professional design and                       | 3650 |
| information technology services;  | 3651 |
| (7) Establish a system to track data and analyze each                           | 3652 |
| certification category established under division (B)(2)(b) of                  | 3653 |
| this section;   | 3654 |
| (8) Establish a process to mediate complaints and to review                     | 3655 |
| EDGE business enterprise certification appeals;                                 | 3656 |
| (9) Implement an outreach program to educate potential                          | 3657 |
| participants about the encouraging diversity, growth, and equity                | 3658 |
| program;  | 3659 |
| (10) Establish a system to assist state agencies in                             | 3660 |
| identifying and utilizing EDGE business enterprises in their                    | 3661 |
| contracting processes;  | 3662 |
| (11) Implement a system of self-reporting by EDGE business                      | 3663 |
| enterprises as well as an on-site inspection process to validate                | 3664 |
| the qualifications of an EDGE business enterprise;                              | 3665 |
| (12) Establish a waiver mechanism to waive program goals or                     | 3666 |
| participation requirements for those companies that, despite their              | 3667 |
| best-documented efforts, are unable to contract with certified                  | 3668 |
| EDGE business enterprises;  | 3669 |
| (13) Establish a process for monitoring overall program                         | 3670 |
| compliance in which equal employment opportunity officers                       | 3671 |
| primarily are responsible for monitoring their respective                       | 3672 |
| agencies;   | 3673 |
| (14) Establish guidelines for state universities as defined                     | 3674 |
| in section 3345.011 of the Revised Code and the Ohio <del>school</del>          | 3675 |
| facilities <u>construction</u> commission created in section <del>3318.30</del> | 3676 |
| <u>123.20</u> of the Revised Code for awarding contracts pursuant to            | 3677 |
| Chapters 153., 3318., and 3345. of the Revised Code to allow the                | 3678 |
| universities and commission to establish agency procurement goals               | 3679 |

for contracting with EDGE business enterprises. 3680

(C) Business and personal financial information and trade 3681  
secrets submitted by encouraging diversity, growth, and equity 3682  
program applicants to the director pursuant to this section are 3683  
not public records for purposes of section 149.43 of the Revised 3684  
Code, unless the director presents the financial information or 3685  
trade secrets at a public hearing or public proceeding regarding 3686  
the applicant's eligibility to participate in the program. 3687

**Sec. ~~123.77~~ 123.17.** The department of administrative services 3688  
may lease land belonging to or under the control or jurisdiction 3689  
of a state university, not required nor to be required for use of 3690  
the university, to a developer in accordance with this section. 3691  
"Developer," as used in this section, means a person, partnership, 3692  
association, corporation, or community improvement corporation 3693  
established pursuant to Chapter 1724. of the Revised Code who or 3694  
which submits a development plan to the department as provided in 3695  
this section and requests the department to enter into a lease. 3696

3697  
Such a lease of university land shall be for the purpose of 3698  
development of the land by establishing, constructing, altering, 3699  
repairing, expanding, and improving industrial, distribution, 3700  
commercial, or research facilities. A developer desiring to lease 3701  
land of the university for such development shall prepare and 3702  
submit to the department of administrative services and to the 3703  
board of trustees of the university a plan for such development. 3704  
Plans shall include provisions for roads, streets, sewers, water 3705  
lines, waste disposal, water supply, and similar matters to meet 3706  
the requirements of state and local laws. The plans shall also 3707  
include provision for protection of the property by insurance or 3708  
otherwise and plans for financing the development, and shall set 3709  
forth details of the developer's financial responsibility. 3710

The department of administrative services may employ as 3711  
employees or consultants, persons needed to assist it in reviewing 3712  
the development plans. Such persons may include attorneys, 3713  
financial experts, engineers, and other necessary experts. The 3714  
department of administrative services shall review the development 3715  
plans and may enter into a lease if it finds that: 3716

(A) The best interests of the university will be promoted by 3717  
entering into a lease with the developer. 3718

(B) The development plans are satisfactory. 3719

(C) The developer has established ~~his~~ the developer's 3720  
financial responsibility and satisfactory plans for financing the 3721  
development. 3722

(D) The university board of trustees approves the lease. 3723

A lease may be entered into pursuant to this section for an 3724  
annual rent agreed to between the department and the developer for 3725  
a maximum term of forty years and may be renewed for a like or 3726  
lesser term. The lease shall contain a provision that construction 3727  
of buildings, structures, roads, and other necessary facilities 3728  
shall begin within one year after the date of the lease and shall 3729  
proceed according to a schedule agreed to between the department 3730  
and the developer or the lease will be terminated. Moneys received 3731  
by the state pursuant to such leases shall be paid into the state 3732  
treasury as an addition to the appropriation made to the 3733  
university which has control or jurisdiction of the land or to 3734  
which the land belongs. 3735

**Sec. ~~123.08~~ 123.18.** The director of administrative services 3736  
may administer oaths to persons required by law to file affidavits 3737  
or statements in the department of administrative services and to 3738  
witnesses who are examined in matters pertaining to the 3739  
administration of the public works. 3740

Sec. 123.20. (A) There is hereby created the Ohio facilities 3741  
construction commission. The commission shall administer the 3742  
design and construction of improvements to public facilities of 3743  
the state in accordance with this chapter and other provisions of 3744  
the Revised Code. 3745

The commission is a body corporate and politic, an agency of 3746  
state government and an instrumentality of the state, performing 3747  
essential governmental functions of this state. The carrying out 3748  
of the purposes and the exercise by the commission of its powers 3749  
are essential public functions and public purposes of the state. 3750  
The commission may, in its own name, sue and be sued, enter into 3751  
contracts, and perform all the powers and duties given to it by 3752  
the Revised Code, but it does not have and shall not exercise the 3753  
power of eminent domain. In its discretion and as it determines 3754  
appropriate, the commission may delegate to any of its members, 3755  
executive director, or other employees any of the commission's 3756  
powers and duties to carry out its functions. 3757

(B) The commission shall consist of three members: the 3758  
director of the office of budget and management and the director 3759  
of administrative services, or their designees, and a member whom 3760  
the governor shall appoint. 3761

Members of the commission shall serve without compensation. 3762

Within sixty days after the effective date of this section, 3763  
the commission shall meet and organize by electing voting members 3764  
as the chairperson and vice-chairperson of the commission, who 3765  
shall hold their offices until the next organizational meeting of 3766  
the commission. Organizational meetings of the commission shall be 3767  
held at the first meeting of each calendar year. At each 3768  
organizational meeting, the commission shall elect from among its 3769  
voting members a chairperson and vice-chairperson, who shall serve 3770  
until the next annual organizational meeting. The commission shall 3771

adopt rules pursuant to Chapter 119. of the Revised Code for the 3772  
conduct of its internal business and shall keep a journal of its 3773  
proceedings. Including the organizational meeting, the commission 3774  
shall meet at least once each calendar year. 3775

Two members of the commission constitute a quorum, and the 3776  
affirmative vote of two members is necessary for approval of any 3777  
action taken by the commission. A vacancy in the membership of the 3778  
commission does not impair a quorum from exercising all the rights 3779  
and performing all the duties of the commission. Meetings of the 3780  
commission may be held anywhere in the state and shall be held in 3781  
compliance with section 121.22 of the Revised Code. 3782

(C) Within sixty days after the effective date of this 3783  
section, the governor shall appoint a member to the commission. 3784  
The initial appointment shall be for a term ending three years 3785  
after the effective date of this section, with subsequent terms 3786  
ending three years after they begin, on the same day of the same 3787  
month as the initial term. 3788

A vacancy for the member appointed by the governor shall be 3789  
filled in the same manner as provided for the original 3790  
appointment. The appointed member shall hold office for the 3791  
remainder of the term for which the vacancy existed. After the 3792  
expiration of the term, the appointed member shall continue in 3793  
office for a period of sixty days or until the appointed member's 3794  
successor takes office, whichever period is shorter. 3795

(D) The commission shall file an annual report of its 3796  
activities and finances with the governor, speaker of the house of 3797  
representatives, president of the senate, and chairpersons of the 3798  
house and senate finance committees. 3799

(E) The commission shall be exempt from the requirements of 3800  
sections 101.82 to 101.87 of the Revised Code. 3801

Sec. 123.201. There is hereby created in the state treasury 3802  
the Ohio facilities construction commission fund, consisting of 3803  
transfers of moneys authorized by the general assembly and 3804  
revenues received by the Ohio facilities construction commission 3805  
under section 123.21 of the Revised Code. Investment earnings on 3806  
moneys in the fund shall be credited to the fund. Moneys in the 3807  
fund may be used by the commission, in performing its duties under 3808  
this chapter, to pay personnel and other administrative expenses, 3809  
to pay the cost of preparing building design specifications, to 3810  
pay the cost of providing project management services, and for 3811  
other purposes determined by the commission to be necessary to 3812  
fulfill its duties under this chapter. 3813

Sec. 123.21. (A) The Ohio facilities construction commission 3814  
may perform any act and ensure the performance of any function 3815  
necessary or appropriate to carry out the purposes of, and 3816  
exercise the powers granted under this chapter or any other 3817  
provision of the Revised Code, including any of the following: 3818

(1) Prepare, or contract to be prepared, by licensed 3819  
engineers or architects, surveys, general and detailed plans, 3820  
specifications, bills of materials, and estimates of cost for any 3821  
projects, improvements, or public buildings to be constructed by 3822  
state agencies that may be authorized by legislative 3823  
appropriations or any other funds made available therefor, 3824  
provided that the construction of the projects, improvements, or 3825  
public buildings is a statutory duty of the commission. This 3826  
section does not require the independent employment of an 3827  
architect or engineer as provided by section 153.01 of the Revised 3828  
Code in the cases to which section 153.01 of the Revised Code 3829  
applies. This section does not affect or alter the existing powers 3830  
of the director of transportation, the director of public safety, 3831  
or the superintendent of the state highway patrol. 3832

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

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

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

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

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

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(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.

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

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(B) The commission shall appoint and fix the compensation of

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an executive director who shall serve at the pleasure of the 3864  
commission. The executive director shall exercise all powers that 3865  
the commission possesses, supervise the operations of the 3866  
commission, and perform such other duties as delegated by the 3867  
commission. The executive director also shall employ and fix the 3868  
compensation of such employees as will facilitate the activities 3869  
and purposes of the commission, who shall serve at the pleasure of 3870  
the executive director. The employees of the commission are exempt 3871  
from Chapter 4117. of the Revised Code and are not considered 3872  
public employees as defined in section 4117.01 of the Revised 3873  
Code. Any agreement entered into prior to July 1, 2012, between 3874  
the office of collective bargaining and the exclusive 3875  
representative for employees of the commission is binding and 3876  
shall continue to have effect. 3877

(C) The attorney general shall serve as the legal 3878  
representative for the commission and may appoint other counsel as 3879  
necessary for that purpose in accordance with section 109.07 of 3880  
the Revised Code. 3881

**Sec. ~~123.011~~ 123.22.** (A) As used in this section: 3882

(1) "Construct" includes reconstruct, improve, renovate, 3883  
enlarge, or otherwise alter. 3884

(2) "Energy consumption analysis" means the evaluation of all 3885  
energy consuming systems, components, and equipment by demand and 3886  
type of energy, including the internal energy load imposed on a 3887  
facility by its occupants and the external energy load imposed by 3888  
climatic conditions. 3889

(3) "Energy performance index" means a number describing the 3890  
energy requirements of a facility per square foot of floor space 3891  
or per cubic foot of occupied volume as appropriate under defined 3892  
internal and external ambient conditions over an entire seasonal 3893  
cycle. 3894

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

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

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

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

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

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

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

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

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

~~(3) Energy efficient procurement;~~ 3925

~~(4) Alternative fuel vehicles.~~ 3926

The ~~office~~ commission may accept and administer grants from 3927  
public and private sources for carrying out any of its duties 3928  
under this section. 3929

(C) No state agency, department, division, bureau, office, 3930  
unit, board, commission, authority, quasi-governmental entity, or 3931  
institution, ~~including those agencies otherwise excluded from the~~ 3932  
~~jurisdiction of the department under division (A)(3) of section~~ 3933  
~~123.01 of the Revised Code,~~ shall lease, construct, or cause to be 3934  
leased or constructed, within the limits prescribed in this 3935  
section, a state-funded facility, without a proper life-cycle cost 3936  
analysis or, in the case of a lease, an energy consumption 3937  
analysis, as computed or prepared by a qualified architect or 3938  
engineer in accordance with the rules required by division (D) of 3939  
this section. 3940

Construction shall proceed only upon the disclosure to the 3941  
office, for the facility chosen, of the life-cycle costs as 3942  
determined in this section and the capitalization of the initial 3943  
construction costs of the building. The results of life-cycle cost 3944  
analysis shall be a primary consideration in the selection of a 3945  
building design. That analysis shall be required only for 3946  
construction of buildings with an area of five thousand square 3947  
feet or greater. An energy consumption analysis for the term of a 3948  
proposed lease shall be required only for the leasing of an area 3949  
of twenty thousand square feet or greater within a given building 3950  
boundary. That analysis shall be a primary consideration in the 3951  
selection of a facility to be leased. 3952

Nothing in this section shall deprive or limit any state 3953  
agency that has review authority over design, construction, or 3954  
leasing plans from requiring a life-cycle cost analysis or energy 3955

consumption analysis. 3956

(D) For the purposes of assisting the ~~department~~ commission 3957  
in its responsibility for state-funded facilities pursuant to 3958  
section ~~123.01~~ 123.21 of the Revised Code and of cost-effectively 3959  
reducing the energy consumption of those and any other 3960  
state-funded facilities, thereby promoting fiscal, economic, and 3961  
environmental benefits to this state, the ~~office~~ commission shall 3962  
promulgate rules specifying cost-effective, energy efficiency and 3963  
conservation standards that may govern the lease, design, 3964  
construction, operation, and maintenance of all state-funded 3965  
facilities, except facilities of state institutions of higher 3966  
education or facilities operated by a political subdivision. The 3967  
office of energy efficiency in the department of development shall 3968  
cooperate in providing information and technical expertise to the 3969  
office of energy services to ensure promulgation of rules of 3970  
maximum effectiveness. The standards prescribed by rules 3971  
promulgated under this division may draw from or incorporate, by 3972  
reference or otherwise and in whole or in part, standards already 3973  
developed or implemented by any competent, public or private 3974  
standards organization or program. The rules also may include any 3975  
of the following: 3976

(1) Specifications for a life-cycle cost analysis that shall 3977  
determine, for the economic life of such state-funded facility, 3978  
the reasonably expected costs of facility ownership, operation, 3979  
and maintenance including labor and materials. Life-cycle cost may 3980  
be expressed as an annual cost for each year of the facility's 3981  
use. 3982

A life-cycle cost analysis additionally may include an energy 3983  
consumption analysis that conforms to division (D)(2) of this 3984  
section. 3985

(2) Specifications for an energy consumption analysis of the 3986  
facility's heating, refrigeration, ventilation, cooling, lighting, 3987

hot water, and other major energy consuming systems, components, 3988  
and equipment. 3989

A life-cycle cost analysis and energy consumption analysis 3990  
shall be based on the best currently available methods of 3991  
analysis, such as those of the national institute of standards and 3992  
technology, the United States department of energy or other 3993  
federal agencies, professional societies, and directions developed 3994  
by the department. 3995

(3) Specifications for energy performance indices, to be used 3996  
to audit and evaluate competing design proposals submitted to the 3997  
state. 3998

(4) A requirement that, not later than two years after April 3999  
6, 2007, each state-funded facility, except a facility of a state 4000  
institution of higher education or a facility operated by a 4001  
political subdivision, is managed by at least one building 4002  
operator certified under the building operator certification 4003  
program or any equivalent program or standards as shall be 4004  
prescribed in the rules and considered reasonably equivalent. 4005

(5) An application process by which a manager of a specified 4006  
state-funded facility, except a facility of a state institution of 4007  
higher education or a facility operated by a political 4008  
subdivision, may apply for a waiver of compliance with any 4009  
provision of the rules required by divisions (D)(1) to (4) of this 4010  
section. 4011

~~(E) The office of energy services shall promulgate rules to 4012  
ensure that energy efficiency and conservation will be considered 4013  
in the purchase of products and equipment, except motor vehicles, 4014  
by any state agency, department, division, bureau, office, unit, 4015  
board, commission, authority, quasi governmental entity, or 4016  
institution. Minimum energy efficiency standards for purchased 4017  
products and equipment may be required, based on federal testing 4018~~

~~and labeling where available or on standards developed by the 4019  
office. The rules shall apply to the competitive selection of 4020  
energy consuming systems, components, and equipment under Chapter 4021  
125. of the Revised Code where possible. 4022~~

~~The office also shall ensure energy efficient and energy 4023  
conserving purchasing practices by doing all of the following: 4024~~

~~(1) Cooperatively with the office of energy efficiency, 4025  
identifying available energy efficiency and conservation 4026  
opportunities; 4027~~

~~(2) Providing for interchange of information among purchasing 4028  
agencies; 4029~~

~~(3) Identifying laws, policies, rules, and procedures that 4030  
need modification; 4031~~

~~(4) Monitoring experience with and the cost effectiveness of 4032  
this state's purchase and use of motor vehicles and of major 4033  
energy consuming systems, components, equipment, and products 4034  
having a significant impact on energy consumption by government; 4035~~

~~(5) Cooperatively with the office of energy efficiency, 4036  
providing technical assistance and training to state employees 4037  
involved in the purchasing process. 4038~~

~~The department of development shall make recommendations to 4039  
the office regarding planning and implementation of purchasing 4040  
policies and procedures supportive of energy efficiency and 4041  
conservation. 4042~~

~~(F)(1) The office of energy services shall require all state 4043  
agencies, departments, divisions, bureaus, offices, units, 4044  
commissions, boards, authorities, quasi governmental entities, 4045  
institutions, and state institutions of higher education to 4046  
implement procedures ensuring that all their passenger automobiles 4047  
acquired in each fiscal year, except for those passenger 4048~~

~~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  
leased for a period of sixty continuous days or more, or  
purchased.~~

~~(G)(E) Each state agency, department, division, bureau,  
office, unit, board, commission, authority, quasi-governmental  
entity, institution, and state institution of higher education~~

shall comply with any applicable provision of this section or of a 4080  
rule promulgated pursuant to division (D) ~~or (F)~~ of this section. 4081

Sec. 123.23. (A) As used in this section, "public exigency" 4082  
means an injury or obstruction that occurs in any public works of 4083  
the state that materially impairs its immediate use or places in 4084  
jeopardy property adjacent to it; an immediate danger of such an 4085  
injury or obstruction; or an injury or obstruction, or an 4086  
immediate danger of an injury or obstruction, that occurs during 4087  
the process of construction of any public works and that 4088  
materially impairs its immediate use or places in jeopardy 4089  
property adjacent to it. 4090

(B) When a declaration of a public exigency is issued 4091  
pursuant to division (C) of this section, the executive director 4092  
of the Ohio facilities construction commission may enter into 4093  
contracts with proper persons for the performance of labor, the 4094  
furnishing of materials, or the construction of any structures and 4095  
buildings necessary to the maintenance, control, and management of 4096  
the public works of the state or any part of those public works. 4097  
Any contracts awarded for the work performed pursuant to the 4098  
declaration of a public exigency may be awarded without 4099  
competitive bidding or selection as otherwise required by Chapter 4100  
153. of the Revised Code. 4101

(C) The executive director of the commission may issue a 4102  
declaration of a public exigency on the executive director's own 4103  
initiative, or upon the request of the director of any state 4104  
agency, university, or instrumentality. The executive director's 4105  
declaration shall identify the specific injury, obstruction, or 4106  
danger that is the subject of the declaration and shall set forth 4107  
a dollar limitation for the repair, removal, or prevention of that 4108  
exigency under the declaration. 4109

Before any project to repair, remove, or prevent a public 4110

exigency under the executive director's declaration may begin, the 4111  
executive director shall send notice of the project, in writing, 4112  
to the director of budget and management and to the members of the 4113  
controlling board. The notice shall detail the project to be 4114  
undertaken to address the public exigency and shall include a copy 4115  
of the director's declaration that establishes the monetary 4116  
limitations on that project. 4117

**Sec. ~~123.17~~ 123.24.** (A) As used in this section, "institution 4118  
of higher education" means a state university or college, as 4119  
defined in section 3345.12 of the Revised Code, or a state 4120  
community college. 4121

(B) ~~Not later than December 30, 2005, the state architect~~ The 4122  
Ohio facilities construction commission shall establish a local 4123  
administration competency certification program to certify 4124  
institutions of higher education to administer capital facilities 4125  
projects pursuant to section 3345.51 of the Revised Code without 4126  
the supervision, control, or approval of the ~~department of~~ 4127  
~~administrative services~~ commission. The program shall offer 4128  
instruction in the administration of capital facilities projects 4129  
for employees of institutions of higher education who are 4130  
responsible for such administration and who are selected by their 4131  
employing institutions to participate in the program. 4132

(C) The program shall provide instruction about the 4133  
provisions of Chapters 9., 123., and 153. of the Revised Code and 4134  
any rules or policies adopted by the ~~department~~ commission 4135  
regarding the planning, design, and construction of capital 4136  
facilities, including all of the following: 4137

- (1) The planning, design, and construction process; 4138
- (2) Contract requirements; 4139
- (3) Construction management; 4140

|   |      |
|---|------|
| (4) Project management.   | 4141 |
| (D) The <del>state architect</del> <u>commission</u> shall award local              | 4142 |
| administration competency certification to any institution of                       | 4143 |
| higher education if all of the following apply:                                     | 4144 |
| (1) The institution applied for certification on a form and                         | 4145 |
| in a manner prescribed by the <del>state architect</del> <u>commission</u> .        | 4146 |
| (2) The <del>state architect</del> <u>commission</u> determines that a              | 4147 |
| sufficient number of the institution's employees, representing a                    | 4148 |
| sufficient number of employee classifications, responsible for the                  | 4149 |
| administration of capital facilities projects have successfully                     | 4150 |
| completed the certification program to ensure that any capital                      | 4151 |
| facilities project undertaken by the institution will be                            | 4152 |
| administered successfully and in accordance with all provisions of                  | 4153 |
| the Revised Code, and the board of trustees of the institution                      | 4154 |
| provides written assurance to the <del>state architect</del> <u>commission</u> that | 4155 |
| the institution will select new employees to participate in the                     | 4156 |
| certification program as necessary to compensate for employee                       | 4157 |
| turnover.   | 4158 |
| (3) The <del>state architect</del> <u>commission</u> determines that the            | 4159 |
| employees of the institution enrolled in the program demonstrate                    | 4160 |
| successful completion of the competency certification training and                  | 4161 |
| a satisfactory level of knowledge of and competency in the                          | 4162 |
| requirements for administering capital facilities projects.                         | 4163 |
| (4) The institution pays the fee prescribed by division (F)                         | 4164 |
| of this section.  | 4165 |
| (5) The board of trustees of the institution provides written                       | 4166 |
| assurance to the <del>state architect</del> <u>commission</u> that the institution  | 4167 |
| will conduct biennial audits of the institution's administration                    | 4168 |
| of capital facilities projects in accordance with division (C) of                   | 4169 |
| section 3345.51 of the Revised Code.  | 4170 |
| (6) The board of trustees of the institution agrees in                              | 4171 |

writing to indemnify and hold harmless the state and the 4172  
~~department~~ commission for any claim of injury, loss, or damage 4173  
that results from the institution's administration of a capital 4174  
facilities project. 4175

(E) Local administration competency certification granted 4176  
under this section shall remain in effect for as long as the ~~state~~ 4177  
~~architect~~ commission determines that both of the following apply: 4178

(1) The institution of higher education maintains a 4179  
sufficient number of employees responsible for the administration 4180  
of capital facilities projects who have successfully completed the 4181  
certification program and have demonstrated a satisfactory level 4182  
of knowledge of and competency in the requirements for 4183  
administering capital facilities projects; 4184

(2) The institution is performing the biennial audits 4185  
prescribed in division (C) of section 3345.51 of the Revised Code. 4186

If the ~~state architect~~ commission determines that an 4187  
institution of higher education has failed to comply with the 4188  
conditions of division (E)(1) or (2) of this section, the ~~state~~ 4189  
~~architect~~ commission shall revoke the institution's certification 4190  
and shall notify the board of trustees of the institution in 4191  
writing of the revocation. 4192

(F) The ~~state architect~~ commission shall establish, subject 4193  
to the approval of the director of budget and management, the 4194  
amount of the fee required to be paid by any institution of higher 4195  
education that seeks certification under this section. The amount 4196  
of the fees shall be set to cover the costs to implement this 4197  
section, including the costs for materials and the competency 4198  
certification training sessions. Any fees received under this 4199  
section shall be paid into the state treasury to the credit of the 4200  
~~state architect's~~ commission's fund established under section 4201  
~~123.10~~ 123.201 of the Revised Code. 4202

(G) Nothing in this section shall prohibit an institution 4203  
that administers a capital facilities project under section 4204  
3345.51 of the Revised Code from requesting guidance or other 4205  
services from the ~~department of administrative services~~ 4206  
commission. 4207

Sec. 123.26. (A) The executive director of the Ohio 4208  
facilities construction commission shall regulate the rate of 4209  
tolls to be collected on the construction or improvement of the 4210  
public works of the state, and shall fix all rentals and collect 4211  
all tolls, rents, fines, commissions, fees, and other revenues 4212  
arising from any source in the construction or improvement of the 4213  
public works of the state. 4214

(B) Deposits made to the commission's fund in the state 4215  
treasury under section 123.201 of the Revised Code shall consist 4216  
of money received by the commission under division (A) of this 4217  
section, fees paid under section 123.24 of the Revised Code, 4218  
transfers of money to the fund authorized by the general assembly, 4219  
and such amount of the investment earnings of the administrative 4220  
building fund created in division (F) of section 154.24 of the 4221  
Revised Code as the director of budget and management determines 4222  
to be appropriate and in excess of the amounts required to meet 4223  
estimated federal arbitrage rebate requirements. Money in the fund 4224  
shall be used by the commission for the following purposes: 4225

(1) To pay personnel and other administrative expenses of the 4226  
commission; 4227

(2) To pay the cost of conducting evaluations of public 4228  
works; 4229

(3) To pay the cost of building design specifications; 4230

(4) To pay the cost of providing project management services; 4231

(5) To pay the cost of operating the local administration 4232

competency certification program prescribed by section 123.24 of 4233  
the Revised Code; and 4234

(6) Any other purposes that the executive director of the 4235  
commission determines to be necessary for the commission to 4236  
execute its duties under this chapter. 4237

**Sec. ~~123.101~~ 123.27.** (A) As used in this section: 4238

"Capital facilities project" means the construction, 4239  
reconstruction, improvement, enlargement, alteration, or repair of 4240  
a building by a public entity. 4241

"Public entity" includes a state agency and a state 4242  
institution of higher education. 4243

"State institution of higher education" has the same meaning 4244  
as in section 3345.011 of the Revised Code. 4245

(B) Commencing not later than July 1, 2012, and upon 4246  
completion of a capital facilities project that is funded wholly 4247  
or in part using state funds, each public entity shall submit a 4248  
report about the project to the executive director of 4249  
~~administrative services~~ the Ohio facilities construction 4250  
commission. The report shall be submitted in Ohio administrative 4251  
knowledge system capital improvement format or in a manner 4252  
determined by the executive director and not later than thirty 4253  
days after the project is complete. The report shall provide the 4254  
total original contract bid, total cost of change orders, total 4255  
actual cost of the project, total costs incurred for mediation and 4256  
litigation services, and any other data requested by the executive 4257  
director. The first report submitted pursuant to this division 4258  
shall include information about any capital facilities project 4259  
completed on or after July 1, 2011. Any capital facilities project 4260  
that is funded wholly or in part through appropriations made to 4261  
the Ohio school facilities commission, the Ohio public works 4262

commission, or the Ohio cultural facilities commission, or for 4263  
which a joint use agreement has been entered into with any public 4264  
entity, is exempt from the reporting requirement prescribed under 4265  
this division. 4266

(C) Commencing not later than July 1, 2012, and annually 4267  
thereafter, the attorney general shall report to the executive 4268  
director of the Ohio facilities construction commission on any 4269  
mediation and litigation costs associated with capital facilities 4270  
projects for which a judgment has been rendered. The report shall 4271  
be submitted in a manner prescribed by the executive director and 4272  
shall contain any information requested by the executive director 4273  
related to capital facilities project mediation and litigation 4274  
costs. 4275

(D) As soon as practicable after such information is made 4276  
available, the executive director of ~~administrative services~~ the 4277  
Ohio facilities construction commission shall incorporate the 4278  
information reported pursuant to divisions (B) and (C) of this 4279  
section into the Ohio administrative knowledge system. 4280

**Sec. 124.04.** In addition to those powers enumerated in 4281  
Chapters 123. and 125. of the Revised Code and as provided 4282  
elsewhere by law, the powers, duties, and functions of the 4283  
department of administrative services not specifically vested in 4284  
and assigned to, or to be performed by, the state personnel board 4285  
of review are hereby vested in and assigned to, and shall be 4286  
performed by, the director of administrative services. These 4287  
powers, duties, and functions shall include, but shall not be 4288  
limited to, the following powers, duties, and functions: 4289

(A) To prepare, conduct, and grade all competitive 4290  
examinations for positions in the classified ~~state~~ service of the 4291  
state; 4292

(B) To prepare, conduct, and grade all noncompetitive 4293

|   |      |
|---|------|
| examinations for positions in the classified <del>state</del> service <u>of the</u> | 4294 |
| <u>state</u> ;  | 4295 |
| (C) To prepare eligible lists containing the names of persons                       | 4296 |
| qualified for appointment to positions in the classified <del>state</del>           | 4297 |
| service <u>of the state</u> ;   | 4298 |
| (D) To prepare or amend, in accordance with section 124.14 of                       | 4299 |
| the Revised Code, specifications descriptive of duties,                             | 4300 |
| responsibilities, requirements, and desirable qualifications of                     | 4301 |
| the various classifications of positions in the <del>state</del> service <u>of</u>  | 4302 |
| <u>the state</u> ;  | 4303 |
| (E) To allocate and reallocate, upon the motion of the                              | 4304 |
| director or upon request of an appointing authority and in                          | 4305 |
| accordance with section 124.14 of the Revised Code, any position,                   | 4306 |
| office, or employment in the <del>state</del> service <u>of the state</u> to the    | 4307 |
| appropriate classification on the basis of the duties,                              | 4308 |
| responsibilities, requirements, and qualifications of that                          | 4309 |
| position, office, or employment;  | 4310 |
| (F) To develop and conduct personnel recruitment services <u>and</u>                | 4311 |
| <u>assist appointing authorities in recruiting qualified applicants</u>             | 4312 |
| for positions in the <del>state</del> service <u>of the state</u> ;                 | 4313 |
| (G) To conduct research on specifications, classifications,                         | 4314 |
| and salaries of positions in the <del>state</del> service <u>of the state</u> ;     | 4315 |
| (H) To develop and conduct personnel training programs,                             | 4316 |
| including supervisory training programs and best practices plans,                   | 4317 |
| and to develop merit hiring processes, in cooperation with                          | 4318 |
| appointing authorities <u>for positions in the service of the state</u> ;           | 4319 |
| (I) To include periodically in communications sent to state                         | 4320 |
| employees both of the following:  | 4321 |
| (1) Information developed under section 2108.34 of the                              | 4322 |
| Revised Code promoting the donation of anatomical gifts under                       | 4323 |

|   |  |
|---|--|
| Chapter 2108. of the Revised Code;  | 4324   |
| (2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code.  | 4325<br>4326<br>4327                                 |
| (J) To enter into agreements with universities and colleges for in-service training of officers and employees in the civil service <del>and to assist appointing authorities in recruiting qualified applicants;</del>  | 4328<br>4329<br>4330<br>4331                         |
| (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;   | 4332<br>4333<br>4334<br>4335<br>4336                 |
| (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; | 4337<br>4338<br>4339<br>4340<br>4341<br>4342<br>4343 |
| (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;   | 4344<br>4345<br>4346<br>4347                         |
| (N) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any political subdivision with the concurrence of the legislative authority of the political subdivision.   | 4348<br>4349<br>4350<br>4351                         |
| (O) To administer a state equal employment opportunity program.   | 4352<br>4353   |

**Sec. 124.06.** No person shall be appointed, removed, 4354  
transferred, laid off, suspended, reinstated, promoted, or reduced 4355  
as an officer or employee in the civil service, in any manner or 4356  
by any means other than those prescribed in this chapter, and the 4357  
rules of the director of administrative services for positions in 4358  
the service of the state or the municipal or civil service 4359  
township civil service commission within their respective 4360  
jurisdictions. 4361

**Sec. 124.11.** The civil service of the state and the several 4362  
counties, cities, civil service townships, city health districts, 4363  
general health districts, and city school districts of the state 4364  
shall be divided into the unclassified service and the classified 4365  
service. 4366

(A) The unclassified service shall comprise the following 4367  
positions, which shall not be included in the classified service, 4368  
and which shall be exempt from all examinations required by this 4369  
chapter: 4370

(1) All officers elected by popular vote or persons appointed 4371  
to fill vacancies in those offices; 4372

(2) All election officers as defined in section 3501.01 of 4373  
the Revised Code; 4374

(3)(a) The members of all boards and commissions, and heads 4375  
of principal departments, boards, and commissions appointed by the 4376  
governor or by and with the governor's consent; 4377

(b) The heads of all departments appointed by a board of 4378  
county commissioners; 4379

(c) The members of all boards and commissions and all heads 4380  
of departments appointed by the mayor, or, if there is no mayor, 4381  
such other similar chief appointing authority of any city or city 4382  
school district; 4383

Except as otherwise provided in division (A)(17) or (C) of 4384  
this section, this chapter does not exempt the chiefs of police 4385  
departments and chiefs of fire departments of cities or civil 4386  
service townships from the competitive classified service. 4387

(4) The members of county or district licensing boards or 4388  
commissions and boards of revision, and not more than five deputy 4389  
county auditors; 4390

(5) All officers and employees elected or appointed by either 4391  
or both branches of the general assembly, and employees of the 4392  
city legislative authority engaged in legislative duties; 4393

(6) All commissioned, warrant, and noncommissioned officers 4394  
and enlisted persons in the Ohio organized militia, including 4395  
military appointees in the adjutant general's department; 4396

(7)(a) All presidents, business managers, administrative 4397  
officers, superintendents, assistant superintendents, principals, 4398  
deans, assistant deans, instructors, teachers, and such employees 4399  
as are engaged in educational or research duties connected with 4400  
the public school system, colleges, and universities, as 4401  
determined by the governing body of the public school system, 4402  
colleges, and universities; 4403

(b) The library staff of any library in the state supported 4404  
wholly or in part at public expense. 4405

(8) Four clerical and administrative support employees for 4406  
each of the elective state officers, four clerical and 4407  
administrative support employees for each board of county 4408  
commissioners and one such employee for each county commissioner, 4409  
and four clerical and administrative support employees for other 4410  
elective officers and each of the principal appointive executive 4411  
officers, boards, or commissions, except for civil service 4412  
commissions, that are authorized to appoint such clerical and 4413  
administrative support employees; 4414

(9) The deputies and assistants of state agencies authorized 4415  
to act for and on behalf of the agency, or holding a fiduciary or 4416  
administrative relation to that agency and those persons employed 4417  
by and directly responsible to elected county officials or a 4418  
county administrator and holding a fiduciary or administrative 4419  
relationship to such elected county officials or county 4420  
administrator, and the employees of such county officials whose 4421  
fitness would be impracticable to determine by competitive 4422  
examination, provided that division (A)(9) of this section shall 4423  
not affect those persons in county employment in the classified 4424  
service as of September 19, 1961. Nothing in division (A)(9) of 4425  
this section applies to any position in a county department of job 4426  
and family services created pursuant to Chapter 329. of the 4427  
Revised Code. 4428

(10) Bailiffs, constables, official stenographers, and 4429  
commissioners of courts of record, deputies of clerks of the 4430  
courts of common pleas who supervise or who handle public moneys 4431  
or secured documents, and such officers and employees of courts of 4432  
record and such deputies of clerks of the courts of common pleas 4433  
as the ~~director of administrative services~~ appointing authority 4434  
finds it impracticable to determine their fitness by competitive 4435  
examination; 4436

(11) Assistants to the attorney general, special counsel 4437  
appointed or employed by the attorney general, assistants to 4438  
county prosecuting attorneys, and assistants to city directors of 4439  
law; 4440

(12) Such teachers and employees in the agricultural 4441  
experiment stations; such students in normal schools, colleges, 4442  
and universities of the state who are employed by the state or a 4443  
political subdivision of the state in student or intern 4444  
classifications; and such unskilled labor positions as the 4445  
director of administrative services, with respect to positions in 4446

the service of the state, or any municipal civil service 4447  
commission may find it impracticable to include in the competitive 4448  
classified service; provided such exemptions shall be by order of 4449  
the commission or the director, duly entered on the record of the 4450  
commission or the director with the reasons for each such 4451  
exemption; 4452

(13) Any physician or dentist who is a full-time employee of 4453  
the department of mental health, the department of developmental 4454  
disabilities, or an institution under the jurisdiction of either 4455  
department; and physicians who are in residency programs at the 4456  
institutions; 4457

(14) Up to twenty positions at each institution under the 4458  
jurisdiction of the department of mental health or the department 4459  
of developmental disabilities that the department director 4460  
determines to be primarily administrative or managerial; and up to 4461  
fifteen positions in any division of either department, excluding 4462  
administrative assistants to the director and division chiefs, 4463  
which are within the immediate staff of a division chief and which 4464  
the director determines to be primarily and distinctively 4465  
administrative and managerial; 4466

(15) Noncitizens of the United States employed by the state, 4467  
or its counties or cities, as physicians or nurses who are duly 4468  
licensed to practice their respective professions under the laws 4469  
of this state, or medical assistants, in mental or chronic disease 4470  
hospitals, or institutions; 4471

(16) Employees of the governor's office; 4472

(17) Fire chiefs and chiefs of police in civil service 4473  
townships appointed by boards of township trustees under section 4474  
505.38 or 505.49 of the Revised Code; 4475

(18) Executive directors, deputy directors, and program 4476  
directors employed by boards of alcohol, drug addiction, and 4477

mental health services under Chapter 340. of the Revised Code, and 4478  
secretaries of the executive directors, deputy directors, and 4479  
program directors; 4480

(19) Superintendents, and management employees as defined in 4481  
section 5126.20 of the Revised Code, of county boards of 4482  
developmental disabilities; 4483

(20) Physicians, nurses, and other employees of a county 4484  
hospital who are appointed pursuant to sections 339.03 and 339.06 4485  
of the Revised Code; 4486

(21) The executive director of the state medical board, who 4487  
is appointed pursuant to division (B) of section 4731.05 of the 4488  
Revised Code; 4489

(22) County directors of job and family services as provided 4490  
in section 329.02 of the Revised Code and administrators appointed 4491  
under section 329.021 of the Revised Code; 4492

(23) A director of economic development who is hired pursuant 4493  
to division (A) of section 307.07 of the Revised Code; 4494

(24) Chiefs of construction and compliance, of operations and 4495  
maintenance, of worker protection, and of licensing and 4496  
certification in the division of ~~labor~~ industrial compliance in 4497  
the department of commerce; 4498

(25) The executive director of a county transit system 4499  
appointed under division (A) of section 306.04 of the Revised 4500  
Code; 4501

(26) Up to five positions at each of the administrative 4502  
departments listed in section 121.02 of the Revised Code and at 4503  
the department of taxation, department of the adjutant general, 4504  
department of education, Ohio board of regents, bureau of workers' 4505  
compensation, industrial commission, state lottery commission, and 4506  
public utilities commission of Ohio that the head of that 4507

administrative department or of that other state agency determines 4508  
to be involved in policy development and implementation. The head 4509  
of the administrative department or other state agency shall set 4510  
the compensation for employees in these positions at a rate that 4511  
is not less than the minimum compensation specified in pay range 4512  
41 but not more than the maximum compensation specified in pay 4513  
range 44 of salary schedule E-2 in section 124.152 of the Revised 4514  
Code. The authority to establish positions in the unclassified 4515  
service under division (A)(26) of this section is in addition to 4516  
and does not limit any other authority that an administrative 4517  
department or state agency has under the Revised Code to establish 4518  
positions, appoint employees, or set compensation. 4519

(27) Employees of the department of agriculture employed 4520  
under section 901.09 of the Revised Code; 4521

(28) For cities, counties, civil service townships, city 4522  
health districts, general health districts, and city school 4523  
districts, the deputies and assistants of elective or principal 4524  
executive officers authorized to act for and in the place of their 4525  
principals or holding a fiduciary relation to their principals; 4526

(29) Employees who receive intermittent or temporary 4527  
appointments under division (B) of section 124.30 of the Revised 4528  
Code; 4529

(30) Employees appointed to administrative staff positions 4530  
for which an appointing authority is given specific statutory 4531  
authority to set compensation; 4532

(31) Employees appointed to highway patrol cadet or highway 4533  
patrol cadet candidate classifications; 4534

(32) Employees placed in the unclassified service by another 4535  
section of the Revised Code. 4536

(B) The classified service shall comprise all persons in the 4537  
employ of the state and the several counties, cities, city health 4538

districts, general health districts, and city school districts of 4539  
the state, not specifically included in the unclassified service. 4540  
Upon the creation by the board of trustees of a civil service 4541  
township civil service commission, the classified service shall 4542  
also comprise, except as otherwise provided in division (A)(17) or 4543  
(C) of this section, all persons in the employ of a civil service 4544  
township police or fire department having ten or more full-time 4545  
paid employees. The classified service consists of two classes, 4546  
which shall be designated as the competitive class and the 4547  
unskilled labor class. 4548

(1) The competitive class shall include all positions and 4549  
employments in the state and the counties, cities, city health 4550  
districts, general health districts, and city school districts of 4551  
the state, and, upon the creation by the board of trustees of a 4552  
civil service township of a township civil service commission, all 4553  
positions in a civil service township police or fire department 4554  
having ten or more full-time paid employees, for which it is 4555  
practicable to determine the merit and fitness of applicants by 4556  
competitive examinations. Appointments shall be made to, or 4557  
employment shall be given in, all positions in the competitive 4558  
class that are not filled by promotion, reinstatement, transfer, 4559  
or reduction, as provided in this chapter, and the rules of the 4560  
director of administrative services, by appointment from those 4561  
certified to the appointing officer in accordance with this 4562  
chapter. 4563

(2) The unskilled labor class shall include ordinary 4564  
unskilled laborers. Vacancies in the labor class for positions in 4565  
service of the state shall be filled by appointment from lists of 4566  
applicants registered by the director or the director's designee. 4567  
Vacancies in the labor class for all other positions shall be 4568  
filled by appointment from lists of applicants registered by a 4569  
commission. The director or the commission, as applicable, by 4570

rule, shall require an applicant for registration in the labor 4571  
class to furnish evidence or take tests as the director or 4572  
commission considers proper with respect to age, residence, 4573  
physical condition, ability to labor, honesty, sobriety, industry, 4574  
capacity, and experience in the work or employment for which 4575  
application is made. Laborers who fulfill the requirements shall 4576  
be placed on the eligible list for the kind of labor or employment 4577  
sought, and preference shall be given in employment in accordance 4578  
with the rating received from that evidence or in those tests. 4579  
Upon the request of an appointing officer, stating the kind of 4580  
labor needed, the pay and probable length of employment, and the 4581  
number to be employed, the director or commission, as applicable, 4582  
shall certify from the highest on the list double the number to be 4583  
employed; from this number, the appointing officer shall appoint 4584  
the number actually needed for the particular work. If more than 4585  
one applicant receives the same rating, priority in time of 4586  
application shall determine the order in which their names shall 4587  
be certified for appointment. 4588

(C) A municipal or civil service township civil service 4589  
commission may place volunteer firefighters who are paid on a 4590  
fee-for-service basis in either the classified or the unclassified 4591  
civil service. 4592

(D)(1) This division does not apply to persons in the 4593  
unclassified service who have the right to resume positions in the 4594  
classified service under sections 4121.121, 5119.071, 5120.38, 4595  
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 4596  
Code or to cities, counties, or political subdivisions of the 4597  
state. 4598

~~An appointing authority whose employees are paid directly by 4599  
warrant of the director of budget and management may appoint a 4600  
person who holds a certified position in the classified service 4601  
within the appointing authority's agency to a position in the 4602~~

~~unclassified service within that agency. (2) A person appointed~~ 4603  
~~pursuant to this division who holds a position in the classified~~ 4604  
~~service of the safe and who is appointed~~ to a position in the 4605  
unclassified service shall retain the right to resume the position 4606  
and status held by the person in the classified service 4607  
immediately prior to the person's appointment to the position in 4608  
the unclassified service, regardless of the number of positions 4609  
the person held in the unclassified service. An employee's right 4610  
to resume a position in the classified service may only be 4611  
exercised when an appointing authority demotes the employee to a 4612  
pay range lower than the employee's current pay range or revokes 4613  
the employee's appointment to the unclassified service- and: 4614

(a) That person held a certified position prior to July 1, 4615  
2007, in the classified service within the appointing authority's 4616  
agency; or 4617

(b) That person held a permanent position on or after July 1, 4618  
2007, in the classified service within the appointing authority's 4619  
agency. 4620

(3) An employee forfeits the right to resume a position in 4621  
the classified service when ~~the:~~ 4622

(a) The employee is removed from the position in the 4623  
unclassified service due to incompetence, inefficiency, 4624  
dishonesty, drunkenness, immoral conduct, insubordination, 4625  
discourteous treatment of the public, neglect of duty, violation 4626  
of this chapter or the rules of the director of administrative 4627  
services, any other failure of good behavior, any other acts of 4628  
misfeasance, malfeasance, or nonfeasance in office, or conviction 4629  
of a felony. ~~An employee also forfeits the right to resume a~~ 4630  
~~position in the classified service upon; or~~ 4631

(b) Upon transfer to a different agency. 4632

(4) Reinstatement to a position in the classified service 4633

shall be to a position substantially equal to that position in the 4634  
classified service held previously, as certified by the director 4635  
of administrative services. If the position the person previously 4636  
held in the classified service has been placed in the unclassified 4637  
service or is otherwise unavailable, the person shall be appointed 4638  
to a position in the classified service within the appointing 4639  
authority's agency that the director of administrative services 4640  
certifies is comparable in compensation to the position the person 4641  
previously held in the classified service. Service in the position 4642  
in the unclassified service shall be counted as service in the 4643  
position in the classified service held by the person immediately 4644  
prior to the person's appointment to the position in the 4645  
unclassified service. When a person is reinstated to a position in 4646  
the classified service as provided in this division, the person is 4647  
entitled to all rights, status, and benefits accruing to the 4648  
position in the classified service during the person's time of 4649  
service in the position in the unclassified service. 4650

**Sec. 124.12.** (A) Within ninety days after an appointing 4651  
authority appoints an employee to an unclassified position in the 4652  
service of the state, the appointing authority shall notify the 4653  
department of administrative services of that appointment. 4654

(B) On the date an appointing authority appoints an employee 4655  
to an unclassified position in the state service, the appointing 4656  
authority shall provide the employee with written information 4657  
describing the nature of employment in the unclassified civil 4658  
service. Within thirty days after the date an appointing authority 4659  
appoints an employee to an unclassified position in the state 4660  
service, the appointing authority shall provide the employee with 4661  
written information describing the duties of that position. 4662  
Failure of the appointing authority to provide the written 4663  
information described in this division to the employee does not 4664  
confer any additional rights upon the employee in any appellate 4665

body with jurisdiction over an appeal of the employee. 4666

(C) The department shall develop and provide each appointing 4667  
authority in the ~~state~~ service of the state with a general written 4668  
description of the nature of employment in the unclassified civil 4669  
service that shall be provided to employees under division (B) of 4670  
this section. 4671

**Sec. 124.14.** (A)(1) The director of administrative services 4672  
shall establish, and may modify or rescind, by rule, a job 4673  
classification plan for all positions, offices, and employments 4674  
the salaries of which are paid in whole or in part by the state. 4675  
The director shall group jobs within a classification so that the 4676  
positions are similar enough in duties and responsibilities to be 4677  
described by the same title, to have the same pay assigned with 4678  
equity, and to have the same qualifications for selection applied. 4679  
The director shall, by rule, assign a classification title to each 4680  
classification within the classification plan. However, the 4681  
director shall consider in establishing classifications, including 4682  
classifications with parenthetical titles, and assigning pay 4683  
ranges such factors as duties performed only on one shift, special 4684  
skills in short supply in the labor market, recruitment problems, 4685  
separation rates, comparative salary rates, the amount of training 4686  
required, and other conditions affecting employment. The director 4687  
shall describe the duties and responsibilities of the class, 4688  
establish the qualifications for being employed in each position 4689  
in the class, and file with the secretary of state a copy of 4690  
specifications for all of the classifications. The director shall 4691  
file new, additional, or revised specifications with the secretary 4692  
of state before they are used. 4693

The director shall, by rule, assign each classification, 4694  
either on a statewide basis or in particular counties or state 4695  
institutions, to a pay range established under section 124.15 or 4696

section 124.152 of the Revised Code. The director may assign a 4697  
classification to a pay range on a temporary basis for a period of 4698  
six months. The director may establish, by rule adopted under 4699  
Chapter 119. of the Revised Code, experimental classification 4700  
plans for some or all employees paid directly by warrant of the 4701  
director of budget and management. The rule shall include 4702  
specifications for each classification within the plan and shall 4703  
specifically address compensation ranges, and methods for 4704  
advancing within the ranges, for the classifications, which may be 4705  
assigned to pay ranges other than the pay ranges established under 4706  
section 124.15 or 124.152 of the Revised Code. 4707

(2) The director of administrative services may reassign to a 4708  
proper classification those positions that have been assigned to 4709  
an improper classification. If the compensation of an employee in 4710  
such a reassigned position exceeds the maximum rate of pay for the 4711  
employee's new classification, the employee shall be placed in pay 4712  
step X and shall not receive an increase in compensation until the 4713  
maximum rate of pay for that classification exceeds the employee's 4714  
compensation. 4715

(3) The director may reassign an exempt employee, as defined 4716  
in section 124.152 of the Revised Code, to a bargaining unit 4717  
classification if the director determines that the bargaining unit 4718  
classification is the proper classification for that employee. 4719  
Notwithstanding Chapter 4117. of the Revised Code or instruments 4720  
and contracts negotiated under it, these placements are at the 4721  
director's discretion. 4722

(4) The director shall, by rule, assign related 4723  
classifications, which form a career progression, to a 4724  
classification series. The director shall, by rule, assign each 4725  
classification in the classification plan a five-digit number, the 4726  
first four digits of which shall denote the classification series 4727  
to which the classification is assigned. When a career progression 4728

encompasses more than ten classifications, the director shall, by 4729  
rule, identify the additional classifications belonging to a 4730  
classification series. The additional classifications shall be 4731  
part of the classification series, notwithstanding the fact that 4732  
the first four digits of the number assigned to the additional 4733  
classifications do not correspond to the first four digits of the 4734  
numbers assigned to other classifications in the classification 4735  
series. 4736

~~(5) The director may establish, modify, or rescind a 4737  
classification plan for county agencies that elect not to use the 4738  
services and facilities of a county personnel department. The 4739  
director shall establish any such classification plan by means of 4740  
rules adopted under Chapter 119. of the Revised Code. The rules 4741  
shall include a methodology for the establishment of titles unique 4742  
to county agencies, the use of state classification titles and 4743  
classification specifications for common positions, the criteria 4744  
for a county to meet in establishing its own classification plan, 4745  
and the establishment of what constitutes a classification series 4746  
for county agencies. The director may assess a county agency that 4747  
chooses to use the classification plan a usage fee the director 4748  
determines. All usage fees the department of administrative 4749  
services receives shall be paid into the state treasury to the 4750  
credit of the human resources fund created in section 124.07 of 4751  
the Revised Code. 4752~~

(B) Division (A) of this section and sections 124.15 and 4753  
124.152 of the Revised Code do not apply to the following persons, 4754  
positions, offices, and employments: 4755

(1) Elected officials; 4756

(2) Legislative employees, employees of the legislative 4757  
service commission, employees in the office of the governor, 4758  
employees who are in the unclassified civil service and exempt 4759  
from collective bargaining coverage in the office of the secretary 4760

of state, auditor of state, treasurer of state, and attorney 4761  
general, and employees of the supreme court; 4762

~~(3) Employees of a county children services board that 4763  
establishes compensation rates under section 5153.12 of the 4764  
Revised Code; 4765~~

~~(4)~~ Any position for which the authority to determine 4766  
compensation is given by law to another individual or entity; 4767

~~(5)~~(4) Employees of the bureau of workers' compensation whose 4768  
compensation the administrator of workers' compensation 4769  
establishes under division (B) of section 4121.121 of the Revised 4770  
Code. 4771

(C) The director may employ a consulting agency to aid and 4772  
assist the director in carrying out this section. 4773

(D)(1) When the director proposes to modify a classification 4774  
or the assignment of classes to appropriate pay ranges, the 4775  
director shall send written notice of the proposed rule to the 4776  
appointing authorities of the affected employees thirty days 4777  
before a hearing on the proposed rule. The appointing authorities 4778  
shall notify the affected employees regarding the proposed rule. 4779  
The director also shall send those appointing authorities notice 4780  
of any final rule that is adopted within ten days after adoption. 4781

(2) When the director proposes to reclassify any employee in 4782  
the service of the state so that the employee is adversely 4783  
affected, the director shall give to the employee affected and to 4784  
the employee's appointing authority a written notice setting forth 4785  
the proposed new classification, pay range, and salary. Upon the 4786  
request of any classified employee in the service of the state who 4787  
is not serving in a probationary period, the director shall 4788  
perform a job audit to review the classification of the employee's 4789  
position to determine whether the position is properly classified. 4790  
The director shall give to the employee affected and to the 4791

employee's appointing authority a written notice of the director's 4792  
determination whether or not to reclassify the position or to 4793  
reassign the employee to another classification. An employee or 4794  
appointing authority desiring a hearing shall file a written 4795  
request for the hearing with the state personnel board of review 4796  
within thirty days after receiving the notice. The board shall set 4797  
the matter for a hearing and notify the employee and appointing 4798  
authority of the time and place of the hearing. The employee, the 4799  
appointing authority, or any authorized representative of the 4800  
employee who wishes to submit facts for the consideration of the 4801  
board shall be afforded reasonable opportunity to do so. After the 4802  
hearing, the board shall consider anew the reclassification and 4803  
may order the reclassification of the employee and require the 4804  
director to assign the employee to such appropriate classification 4805  
as the facts and evidence warrant. As provided in division (A)(1) 4806  
of section 124.03 of the Revised Code, the board may determine the 4807  
most appropriate classification for the position of any employee 4808  
coming before the board, with or without a job audit. The board 4809  
shall disallow any reclassification or reassignment classification 4810  
of any employee when it finds that changes have been made in the 4811  
duties and responsibilities of any particular employee for 4812  
political, religious, or other unjust reasons. 4813

(E)(1) Employees of each county department of job and family 4814  
services shall be paid a salary or wage established by the board 4815  
of county commissioners. The provisions of section 124.18 of the 4816  
Revised Code concerning the standard work week apply to employees 4817  
of county departments of job and family services. A board of 4818  
county commissioners may do either of the following: 4819

(a) Notwithstanding any other section of the Revised Code, 4820  
supplement the sick leave, vacation leave, personal leave, and 4821  
other benefits of any employee of the county department of job and 4822  
family services of that county, if the employee is eligible for 4823

the supplement under a written policy providing for the 4824  
supplement; 4825

(b) Notwithstanding any other section of the Revised Code, 4826  
establish alternative schedules of sick leave, vacation leave, 4827  
personal leave, or other benefits for employees not inconsistent 4828  
with the provisions of a collective bargaining agreement covering 4829  
the affected employees. 4830

(2) Division (E)(1) of this section does not apply to 4831  
employees for whom the state employment relations board 4832  
establishes appropriate bargaining units pursuant to section 4833  
4117.06 of the Revised Code, except in either of the following 4834  
situations: 4835

(a) The employees for whom the state employment relations 4836  
board establishes appropriate bargaining units elect no 4837  
representative in a board-conducted representation election. 4838

(b) After the state employment relations board establishes 4839  
appropriate bargaining units for such employees, all employee 4840  
organizations withdraw from a representation election. 4841

(F)(1) Notwithstanding any contrary provision of sections 4842  
124.01 to 124.64 of the Revised Code, the board of trustees of 4843  
each state university or college, as defined in section 3345.12 of 4844  
the Revised Code, shall carry out all matters of governance 4845  
involving the officers and employees of the university or college, 4846  
including, but not limited to, the powers, duties, and functions 4847  
of the department of administrative services and the director of 4848  
administrative services specified in this chapter. Officers and 4849  
employees of a state university or college shall have the right of 4850  
appeal to the state personnel board of review as provided in this 4851  
chapter. 4852

(2) Each board of trustees shall adopt rules under section 4853  
111.15 of the Revised Code to carry out the matters of governance 4854

described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.

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

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

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

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

(3) After the county personnel department of a county has 4887  
been established as described in division (G)(2) of this section, 4888  
any elected official, board, agency, or other appointing authority 4889  
of that county, upon written notification to the county personnel 4890  
department, may elect to use the services and facilities of the 4891  
county personnel department. Upon receipt of the notification by 4892  
the county personnel department, the county personnel department 4893  
shall exercise the powers, duties, and functions as described in 4894  
division (G)(2) of this section with respect to the employees of 4895  
that elected official, board, agency, or other appointing 4896  
authority. 4897

(4) Each board of county commissioners, by a resolution 4898  
adopted by a majority of its members, may disband the county 4899  
personnel department. 4900

(5) Any elected official, board, agency, or appointing 4901  
authority of a county may end its involvement with a county 4902  
personnel department upon actual receipt by the department of a 4903  
certified copy of the notification that contains the decision to 4904  
no longer participate. 4905

~~(6) The director of administrative services may, by rule 4906  
adopted in accordance with Chapter 119. of the Revised Code,~~ 4907  
~~prescribe criteria and procedures for the following:~~ 4908

~~(a) A requirement that each county personnel department, in 4909  
carrying out its duties, shall adhere to merit system principles 4910  
with regard to employees of county departments of job and family 4911  
services, child support enforcement agencies, and public child 4912  
welfare agencies so that there is no threatened loss of federal 4913  
funding for these agencies, and ~~a requirement that~~ the county ~~be~~ 4914  
is financially liable to the state for any loss of federal funds 4915  
due to the action or inaction of the county personnel department. 4916  
~~The costs associated with audits conducted to monitor compliance~~ 4917  
~~with division (G)(6)(a) of this section shall be reimbursed to the~~ 4918~~

~~department of administrative services as determined by the 4919  
director. All money the department receives for these audits shall 4920  
be paid into the state treasury to the credit of the human 4921  
resources fund created in section 124.07 of the Revised Code. 4922~~

~~(b) Authorization for the director of administrative services 4923  
to conduct periodic audits and reviews of county personnel 4924  
departments to guarantee the uniform application of the powers, 4925  
duties, and functions exercised pursuant to division (G)(2)(a) of 4926  
this section. The costs of the audits and reviews shall be 4927  
reimbursed to the department of administrative services as 4928  
determined by the director by the county for which the services 4929  
are performed. All money the department receives shall be paid 4930  
into the state treasury to the credit of the human resources fund 4931  
created in section 124.07 of the Revised Code. 4932~~

(H) County agencies may contract with the department of 4933  
administrative services for any human resources services, 4934  
including, but not limited to, establishment and modification of 4935  
job classification plans, competitive testing services, and 4936  
periodic audits and reviews of the county's uniform application of 4937  
the powers, duties, and functions specified in sections 124.01 to 4938  
124.64 and Chapter 325. of the Revised Code with regard to 4939  
employees in the service of the county. Nothing in this division 4940  
modifies the powers and duties of the state personnel board of 4941  
review with respect to employees in the service of the county. 4942  
Nothing in this division limits the right of any employee who 4943  
possesses the right of appeal to the state personnel board of 4944  
review to continue to possess that right of appeal. 4945

(I) The director of administrative services shall establish 4946  
the rate and method of compensation for all employees who are paid 4947  
directly by warrant of the director of budget and management and 4948  
who are serving in positions that the director of administrative 4949  
services has determined impracticable to include in the state job 4950

classification plan. This division does not apply to elected 4951  
officials, legislative employees, employees of the legislative 4952  
service commission, employees who are in the unclassified civil 4953  
service and exempt from collective bargaining coverage in the 4954  
office of the secretary of state, auditor of state, treasurer of 4955  
state, and attorney general, employees of the courts, employees of 4956  
the bureau of workers' compensation whose compensation the 4957  
administrator of workers' compensation establishes under division 4958  
(B) of section 4121.121 of the Revised Code, or employees of an 4959  
appointing authority authorized by law to fix the compensation of 4960  
those employees. 4961

~~(I)~~(J) The director of administrative services shall set the 4962  
rate of compensation for all intermittent, seasonal, temporary, 4963  
emergency, and casual employees in the service of the state who 4964  
are not considered public employees under section 4117.01 of the 4965  
Revised Code. Those employees are not entitled to receive employee 4966  
benefits. This rate of compensation shall be equitable in terms of 4967  
the rate of employees serving in the same or similar 4968  
classifications. This division does not apply to elected 4969  
officials, legislative employees, employees of the legislative 4970  
service commission, employees who are in the unclassified civil 4971  
service and exempt from collective bargaining coverage in the 4972  
office of the secretary of state, auditor of state, treasurer of 4973  
state, and attorney general, employees of the courts, employees of 4974  
the bureau of workers' compensation whose compensation the 4975  
administrator establishes under division (B) of section 4121.121 4976  
of the Revised Code, or employees of an appointing authority 4977  
authorized by law to fix the compensation of those employees. 4978

**Sec. 124.231.** (A) As used in this section, "legally blind 4979  
person" means any person who qualifies as being blind under any 4980  
Ohio or federal statute, or any rule adopted thereunder. As used 4981  
in this section, "legally deaf person" means any person who 4982

qualifies as being deaf under any Ohio or federal statute, or any 4983  
rule adopted thereunder. 4984

(B) When an examination is to be administered under sections 4985  
124.01 to ~~124.64~~ 124.31 of the Revised Code, the director of 4986  
administrative services or the director's designee shall whenever 4987  
practicable arrange for special examinations to be administered to 4988  
legally blind or legally deaf persons applying for positions in 4989  
the classified service of the state to ensure that the abilities 4990  
of such applicants are properly assessed and that such applicants 4991  
are not subject to discrimination because they are legally blind 4992  
or legally deaf persons. 4993

**Sec. 124.241.** As used in this section, "professional 4994  
employee" has the same meaning as in section 5126.20 of the 4995  
Revised Code and "registered service employee" means a service 4996  
employee, as defined in section 5126.20 of the Revised Code, who 4997  
is registered under section 5126.25 of the Revised Code. 4998

County boards of developmental disabilities may hire 4999  
professional employees and registered service employees in the 5000  
classified service on the basis of the candidates' qualifications 5001  
rather than on the basis of the results of ~~an~~ a civil service 5002  
examination ~~administered by the director of administrative~~ 5003  
~~services pursuant to, as described in division (D) of section~~ 5004  
124.23 of the Revised Code. 5005

**Sec. 124.25.** The director of administrative services shall 5006  
require persons applying for an examination for original 5007  
appointment in the service of the state to file with the director 5008  
or the director's designee, within reasonable time prior to the 5009  
examination, a formal application, in which the applicant shall 5010  
state the applicant's name, address, and such other information as 5011  
may reasonably be required concerning the applicant's education 5012

and experience. No inquiry shall be made as to religious or 5013  
political affiliations or as to racial or ethnic origin of the 5014  
applicant, except as necessary to gather equal employment 5015  
opportunity or other statistics that, when compiled, will not 5016  
identify any specific individual. 5017

Blank forms for applications shall be furnished by the 5018  
director or the director's designee without charge to any person 5019  
requesting the same. The director or the director's designee may 5020  
require in connection with such application such certificate of 5021  
persons having knowledge of the applicant as the good of the 5022  
service demands. The director or the director's designee may 5023  
refuse to appoint or examine an applicant, or, after an 5024  
examination, refuse to certify the applicant as eligible, who is 5025  
found to lack any of the established preliminary requirements for 5026  
the examination, who is addicted to the habitual use of 5027  
intoxicating liquors or drugs to excess, who has a pattern of poor 5028  
work habits and performance with previous employers, who has been 5029  
convicted of a felony, who has been guilty of infamous or 5030  
notoriously disgraceful conduct, who has been dismissed from 5031  
either branch of the civil service for delinquency or misconduct, 5032  
or who has made false statements of any material fact, or 5033  
practiced, or attempted to practice, any deception or fraud in the 5034  
application or examination, in establishing eligibility, or 5035  
securing an appointment. 5036

**Sec. 124.26.** From the returns of ~~the~~ examinations for 5037  
positions in the service of the state, the director of 5038  
administrative services or the director's designee shall prepare 5039  
an eligible list of the persons whose general average standing 5040  
upon examinations for the class or position is not less than the 5041  
minimum fixed by the rules of the director, and who are otherwise 5042  
eligible. Those persons shall take rank upon the eligible list as 5043  
candidates in the order of their relative excellence as determined 5044

by the examination without reference to priority of the time of 5045  
examination. If two or more applicants receive the same mark in an 5046  
open competitive examination, priority in the time of filing the 5047  
application with the director or the director's designee shall 5048  
determine the order in which their names shall be placed on the 5049  
eligible list, except that applicants eligible for veteran's 5050  
preference under section 124.23 of the Revised Code shall receive 5051  
priority in rank on the eligible list over nonveterans on the list 5052  
with a rating equal to that of the veteran. Ties among veterans 5053  
shall be decided by priority of filing the application. 5054

- An eligible list expires upon the filling or closing of the 5055  
position. An expired eligible list may be used to fill a position 5056  
of the same classification within the same appointing authority 5057  
for which the list was created. But, in no event shall an expired 5058  
list be used more than one year past its expiration date. 5059

**Sec. 124.27.** (A) Appointments to all positions in the 5060  
classified civil service, that are not filled by promotion, 5061  
transfer, or reduction, as provided in sections 124.01 to 124.64 5062  
of the Revised Code and the rules of the director prescribed under 5063  
those sections, shall be made only from those persons whose names 5064  
take rank order on an eligible list, and no employment, except as 5065  
provided in those sections, shall be otherwise given in the 5066  
classified civil service ~~of this state or any political~~ 5067  
~~subdivision of the state.~~ The appointing authority shall appoint 5068  
in the following manner: each time a selection is made, it shall 5069  
be from one of the names that ranks in the top ten names on the 5070  
eligible list or the top twenty-five per cent of the eligible 5071  
list, whichever is greater. ~~But, in~~ In the event that ten or fewer 5072  
names are on the eligible list, the appointing authority may 5073  
select any of the listed candidates. Each person who qualifies for 5074  
the veteran's preference under section 124.23 of the Revised Code, 5075  
who is a resident of this state, and whose name is on the eligible 5076

list for a position is entitled to preference in original 5077  
appointment to any such competitive position in the classified 5078  
civil service of the state ~~and its civil divisions~~ over all other 5079  
persons who are eligible for those appointments and who are 5080  
standing on the relevant eligible list with a rating equal to that 5081  
of the person qualifying for the veteran's preference. 5082

(B) All original and promotional appointments in the 5083  
classified civil service, including appointments made pursuant to 5084  
section 124.30 of the Revised Code, but not intermittent 5085  
appointments, shall be for a probationary period, not less than 5086  
sixty days nor more than one year, to be fixed by the rules of the 5087  
director for appointments in the civil service of the state, 5088  
except as provided in section 124.231 of the Revised Code, and 5089  
except for original appointments to a police department as a 5090  
police officer or to a fire department as a firefighter which 5091  
shall be for a probationary period of one year. No appointment or 5092  
promotion is final until the appointee has satisfactorily served 5093  
the probationary period. If the service of the probationary 5094  
employee is unsatisfactory, the employee may be removed or reduced 5095  
at any time during the probationary period. If the appointing 5096  
authority decides to remove a probationary employee in the service 5097  
of the state, the appointing authority shall communicate the 5098  
removal to the director. A probationary employee duly removed or 5099  
reduced in position for unsatisfactory service does not have the 5100  
right to appeal the removal or reduction under section 124.34 of 5101  
the Revised Code. 5102

**Sec. 124.30.** (A) ~~Positions~~ Classified positions in the 5103  
~~classified~~ civil service may be filled without competition as 5104  
follows: 5105

(1) Whenever there are urgent reasons for filling a vacancy 5106  
in any position in the classified civil service and the director 5107

of administrative services is unable to certify to the appointing authority, upon its request, a list of persons eligible for appointment to the position after a competitive examination, the appointing authority may fill the position by noncompetitive examination.

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

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

(3) The acceptance or refusal by an eligible person of a 5140  
temporary appointment shall not affect the person's standing on 5141  
the eligible list for permanent appointment, nor shall the period 5142  
of temporary service be counted as a part of the probationary 5143  
service in case of subsequent appointment to a permanent position. 5144

(B) Persons who receive temporary or intermittent 5145  
appointments are in the unclassified civil service and serve at 5146  
the pleasure of their appointing authority. 5147

**Sec. 124.31.** Vacancies in positions in the classified civil 5148  
service of the state shall be filled insofar as practicable by 5149  
promotions. The director of administrative services shall provide 5150  
in the director's rules for keeping a record of efficiency for 5151  
each employee in the classified civil service of the state, and 5152  
for making promotions in the classified civil service of the state 5153  
on the basis of merit and by conduct and capacity in office. 5154

**Sec. 125.082.** (A) When purchasing equipment, materials, or 5155  
supplies, the general assembly; the offices of all elected state 5156  
officers; all departments, boards, offices, commissions, agencies, 5157  
institutions, including, without limitation, state-supported 5158  
institutions of higher education, and other instrumentalities of 5159  
this state; the supreme court; all courts of appeals; and all 5160  
courts of common pleas, may purchase recycled products in 5161  
accordance with the guidelines adopted under division (B) of this 5162  
section if the products are available and meet the performance 5163  
specifications of the procuring entities. Purchases of recycled 5164  
products shall comply with any rules adopted under division (C) of 5165  
this section. 5166

(B) The director of administrative services shall adopt rules 5167  
in accordance with Chapter 119. of the Revised Code establishing 5168  
guidelines for the procurement of recycled products pursuant to 5169

division (A) of this section. To the extent practicable, the 5170  
guidelines shall do all of the following: 5171

(1) Be consistent with and substantially equivalent to any 5172  
relevant regulations adopted by the administrator of the United 5173  
States environmental protection agency pursuant to the "Resource 5174  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 5175  
6921, as amended; 5176

(2) Establish the minimum percentage of recycled materials 5177  
the various products shall contain in order to be considered 5178  
"recycled" for the purposes of division (A) of this section; 5179

(3) So far as practicable and economically feasible, 5180  
incorporate specifications for recycled-content materials to 5181  
promote the use and purchase of recycled products by state 5182  
agencies. 5183

(C) The director may adopt rules in accordance with Chapter 5184  
119. of the Revised Code establishing a maximum percentage by 5185  
which the cost of recycled products purchased under division (A) 5186  
of this section may exceed the cost of comparable products made of 5187  
virgin materials. 5188

(D) The department of administrative services and the 5189  
~~department of natural resources~~ environmental protection agency 5190  
annually shall prepare and submit to the governor, president of 5191  
the senate, and speaker of the house of representatives a report 5192  
that describes, so far as practicable, the value and types of 5193  
recycled products that are purchased with moneys disbursed from 5194  
the state treasury by the general assembly; the offices of all 5195  
elected state officers; and all departments, boards, offices, 5196  
commissions, agencies, and institutions of this state. 5197

**Sec. 125.14.** (A) The director of administrative services 5198  
shall allocate any proceeds from the transfer, sale, or lease of 5199

excess and surplus supplies in the following manner: 5200

(1) Except as otherwise provided in division (A)(2) of this 5201  
section, the proceeds of such a transfer, sale, or lease shall be 5202  
paid into the state treasury to the credit of the investment 5203  
recovery fund, which is hereby created. 5204

(2) Except as otherwise provided in division (A)(2) of this 5205  
section, when supplies originally were purchased with funds from 5206  
nongeneral revenue fund sources, the director shall determine what 5207  
fund or account originally was used to purchase the supplies, and 5208  
the credit for the proceeds from any transfer, sale, or lease of 5209  
those supplies shall be transferred to that fund or account. If 5210  
the director cannot determine which fund or account originally was 5211  
used to purchase the supplies, if the fund or account is no longer 5212  
active, or if the proceeds from the transfer, sale, or lease of a 5213  
unit of supplies are less than one hundred dollars or any larger 5214  
amount the director may establish with the approval of the 5215  
director of budget and management, then the proceeds from the 5216  
transfer, sale, or lease of such supplies shall be paid into the 5217  
state treasury to the credit of the investment recovery fund. 5218

(B) The investment recovery fund shall be used to pay for the 5219  
operating expenses of the state surplus property program. Any 5220  
amounts in excess of these operating expenses shall periodically 5221  
be transferred to the general revenue fund of the state. If 5222  
proceeds paid into the investment recovery fund are insufficient 5223  
to pay for the program's operating expenses, a service fee may be 5224  
charged to state agencies to eliminate the deficit. 5225

(C) Proceeds from the sale of recyclable goods and materials 5226  
shall be paid into the state treasury to the credit of the 5227  
recycled materials fund, which is hereby created, except that the 5228  
director of ~~natural resources~~ environmental protection, upon 5229  
request, may grant an exemption from this requirement. The ~~chief~~ 5230  
~~of the division of recycling and litter prevention in the~~ 5231

~~department of natural resources~~ director shall administer the fund 5232  
for the benefit of recycling programs in state agencies. 5233

**Sec. 126.14.** The release of any money appropriated for the 5234  
purchase of real estate shall be approved by the controlling 5235  
board. The release of money appropriated for all other capital 5236  
projects is also subject to the approval of the controlling board, 5237  
except that the director of budget and management may approve the 5238  
release of money appropriated for specific projects in accordance 5239  
with the requirements of this section and except that the director 5240  
of budget and management may approve the release of unencumbered 5241  
capital balances, for a project to repair, remove, or prevent a 5242  
public exigency declared to exist by the director of 5243  
administrative services under section ~~123.15~~ 123.10 of the Revised 5244  
Code, or by the executive director of the Ohio facilities 5245  
construction commission under section 123.23 of the Revised Code, 5246  
in the amount designated in that declaration. 5247

Within sixty days after the effective date of any act 5248  
appropriating money for capital projects, the director shall 5249  
determine which appropriations are for general projects and which 5250  
are for specific projects. Specific projects may include specific 5251  
higher education projects that are to be funded from general 5252  
purpose appropriations from the higher education improvement fund 5253  
or the higher education improvement taxable fund created in 5254  
section 154.21 of the Revised Code. Upon determining which 5255  
projects are general and which are specific, the director shall 5256  
submit to the controlling board a list that includes a brief 5257  
description of and the estimated expenditures for each specific 5258  
project. The release of money for any specific higher education 5259  
projects that are to be funded from general purpose appropriations 5260  
from the higher education improvement fund or the higher education 5261  
improvement taxable fund but that are not included on the list, 5262  
and the release of money for any specific higher education 5263

projects included on the list that will exceed the estimated 5264  
expenditures by more than ten per cent, are subject to the 5265  
approval of the controlling board. 5266

The director may create new appropriation items and make 5267  
transfers of appropriations to them for specific higher education 5268  
projects included on the list that are to be funded from general 5269  
purpose appropriations for basic renovations that are made from 5270  
the higher education improvement fund or the higher education 5271  
improvement taxable fund. 5272

Sec. 127.163. At the time an agency submits a request to the 5273  
controlling board to approve the making of a purchase, if the 5274  
requested purchase is to be made from a supplier who is not 5275  
headquartered in this state but has a presence in this state, the 5276  
agency shall include in the request the following information: 5277

(A) The address or addresses of the supplier's places of 5278  
business in this state; 5279

(B) The total number of employees the supplier employs in 5280  
each of its places of business in this state; 5281

(C) The percentage of the requested purchase to be completed 5282  
by employees of the supplier located in this state; 5283

(D) A list of any suppliers, subcontractors, or other 5284  
entities the supplier intends to use to fulfill the requested 5285  
purchase that includes all of the following: 5286

(1) The address or addresses of the places of business in 5287  
this state of each potential supplier, subcontractor, or entity; 5288

(2) The number of employees that each potential supplier, 5289  
subcontractor, or entity employs in each of its places of business 5290  
in this state; 5291

(3) The percentage of the requested purchase to be completed 5292  
by employees of the potential supplier, subcontractor, or entity 5293

located in this state. 5294

Sec. 127.164. (A) Prior to submitting a request to approve 5295  
the making of a purchase to the controlling board, an agency shall 5296  
contact any entity headquartered in this state that the agency 5297  
approached related to the proposed purchase or to whom the agency 5298  
sent a request for proposals but who did not respond to the 5299  
request for proposals and ascertain why the entity did not 5300  
respond. 5301

(B) At the time an agency submits a request to the 5302  
controlling board to approve the making of a purchase, the agency 5303  
shall submit to the board, as part of the request, the information 5304  
that the agency collected under division (A) of this section. 5305

Sec. 135.35. (A) The investing authority shall deposit or 5306  
invest any part or all of the county's inactive moneys and shall 5307  
invest all of the money in the county public library fund when 5308  
required by section 135.352 of the Revised Code. The following 5309  
classifications of securities and obligations are eligible for 5310  
such deposit or investment: 5311

(1) United States treasury bills, notes, bonds, or any other 5312  
obligation or security issued by the United States treasury, any 5313  
other obligation guaranteed as to principal or interest by the 5314  
United States, or any book entry, zero-coupon United States 5315  
treasury security that is a direct obligation of the United 5316  
States. 5317

Nothing in the classification of eligible securities and 5318  
obligations set forth in divisions (A)(2) to (11) or (A)(13) of 5319  
this section shall be construed to authorize any investment in 5320  
stripped principal or interest obligations of such eligible 5321  
securities and obligations. 5322

(2) Bonds, notes, debentures, or any other obligations or 5323

securities issued by any federal government agency or 5324  
instrumentality, including, but not limited to, the federal 5325  
national mortgage association, federal home loan bank, federal 5326  
farm credit bank, federal home loan mortgage corporation, 5327  
government national mortgage association, and student loan 5328  
marketing association. All federal agency securities shall be 5329  
direct issuances of federal government agencies or 5330  
instrumentalities. 5331

(3) Time certificates of deposit or savings or deposit 5332  
accounts, including, but not limited to, passbook accounts, in any 5333  
eligible institution mentioned in section 135.32 of the Revised 5334  
Code; 5335

(4) Bonds and other obligations of this state ~~or the~~ 5336  
~~political subdivisions of this state;~~ 5337

(5) No-load money market mutual funds consisting exclusively 5338  
of obligations described in division (A)(1) or (2) of this section 5339  
and repurchase agreements secured by such obligations, provided 5340  
that investments in securities described in this division are made 5341  
only through eligible institutions mentioned in section 135.32 of 5342  
the Revised Code; 5343

(6) The Ohio subdivision's fund as provided in section 135.45 5344  
of the Revised Code; 5345

(7) Securities lending agreements with any eligible 5346  
institution mentioned in section 135.32 of the Revised Code that 5347  
is a member of the federal reserve system or federal home loan 5348  
bank or with any recognized United States government securities 5349  
dealer meeting the description in division (J)(1) of this section, 5350  
under the terms of which agreements the investing authority lends 5351  
securities and the eligible institution or dealer agrees to 5352  
simultaneously exchange similar securities or cash, equal value 5353  
for equal value. 5354

Securities and cash received as collateral for a securities 5355  
lending agreement are not inactive moneys of the county or moneys 5356  
of a county public library fund. The investment of cash collateral 5357  
received pursuant to a securities lending agreement may be 5358  
invested only in instruments specified by the investing authority 5359  
in the written investment policy described in division (K) of this 5360  
section. 5361

(8) Up to twenty-five per cent of the county's total average 5362  
portfolio in either of the following investments: 5363

(a) Commercial paper notes issued by an entity that is 5364  
defined in division (D) of section 1705.01 of the Revised Code and 5365  
that has assets exceeding five hundred million dollars, to which 5366  
notes all of the following apply: 5367

(i) The notes are rated at the time of purchase in the 5368  
highest classification established by at least two nationally 5369  
recognized standard rating services. 5370

(ii) The aggregate value of the notes does not exceed ten per 5371  
cent of the aggregate value of the outstanding commercial paper of 5372  
the issuing corporation. 5373

(iii) The notes mature not later than two hundred seventy 5374  
days after purchase. 5375

(b) Bankers acceptances of banks that are insured by the 5376  
federal deposit insurance corporation and to which both of the 5377  
following apply: 5378

(i) The obligations are eligible for purchase by the federal 5379  
reserve system. 5380

(ii) The obligations mature not later than one hundred eighty 5381  
days after purchase. 5382

No investment shall be made pursuant to division (A)(8) of 5383  
this section unless the investing authority has completed 5384

additional training for making the investments authorized by 5385  
division (A)(8) of this section. The type and amount of additional 5386  
training shall be approved by the auditor of state and may be 5387  
conducted by or provided under the supervision of the auditor of 5388  
state. 5389

(9) Up to fifteen per cent of the county's total average 5390  
portfolio in notes issued by corporations that are incorporated 5391  
under the laws of the United States and that are operating within 5392  
the United States, or by depository institutions that are doing 5393  
business under authority granted by the United States or any state 5394  
and that are operating within the United States, provided both of 5395  
the following apply: 5396

(a) The notes are rated in the second highest or higher 5397  
category by at least two nationally recognized standard rating 5398  
services at the time of purchase. 5399

(b) The notes mature not later than two years after purchase. 5400

(10) No-load money market mutual funds rated in the highest 5401  
category at the time of purchase by at least one nationally 5402  
recognized standard rating service and consisting exclusively of 5403  
obligations described in division (A)(1), (2), or (6) of section 5404  
135.143 of the Revised Code; 5405

(11) Debt interests rated at the time of purchase in the 5406  
three highest categories by two nationally recognized standard 5407  
rating services and issued by foreign nations diplomatically 5408  
recognized by the United States government. All interest and 5409  
principal shall be denominated and payable in United States funds. 5410  
The investments made under division (A)(11) of this section shall 5411  
not exceed in the aggregate one per cent of a county's total 5412  
average portfolio. 5413

The investing authority shall invest under division (A)(11) 5414  
of this section in a debt interest issued by a foreign nation only 5415

if the debt interest is backed by the full faith and credit of 5416  
that foreign nation, there is no prior history of default, and the 5417  
debt interest matures not later than five years after purchase. 5418  
For purposes of division (A)(11) of this section, a debt interest 5419  
is rated in the three highest categories by two nationally 5420  
recognized standard rating services if either the debt interest 5421  
itself or the issuer of the debt interest is rated, or is 5422  
implicitly rated, at the time of purchase in the three highest 5423  
categories by two nationally recognized standard rating services. 5424

(12) A current unpaid or delinquent tax line of credit 5425  
authorized under division (G) of section 135.341 of the Revised 5426  
Code, provided that all of the conditions for entering into such a 5427  
line of credit under that division are satisfied, or bonds and 5428  
other obligations of a county land reutilization corporation 5429  
organized under Chapter 1724. of the Revised Code, if the county 5430  
land reutilization corporation is located wholly or partly within 5431  
the same county as the investing authority; 5432

(13) Either or both of the following, provided the 5433  
investments are specifically approved by the investment advisory 5434  
committee and the aggregate amount invested pursuant to division 5435  
(A)(13) of this section does not exceed fifteen per cent of the 5436  
county's total average portfolio: 5437

(a) Bonds or other obligations of the political subdivisions 5438  
of this state, regardless of their date of maturity; 5439

(b) Securities or obligations otherwise eligible for 5440  
investment under this section that mature on a date that is more 5441  
than five years but not more than ten years from the date of 5442  
settlement. 5443

(B) Nothing in the classifications of eligible obligations 5444  
and securities set forth in divisions (A)(1) to (11) or (A)(13) of 5445  
this section shall be construed to authorize investment in a 5446

derivative, and no investing authority shall invest any county 5447  
inactive moneys or any moneys in a county public library fund in a 5448  
derivative. For purposes of this division, "derivative" means a 5449  
financial instrument or contract or obligation whose value or 5450  
return is based upon or linked to another asset or index, or both, 5451  
separate from the financial instrument, contract, or obligation 5452  
itself. Any security, obligation, trust account, or other 5453  
instrument that is created from an issue of the United States 5454  
treasury or is created from an obligation of a federal agency or 5455  
instrumentality or is created from both is considered a derivative 5456  
instrument. An eligible investment described in this section with 5457  
a variable interest rate payment, based upon a single interest 5458  
payment or single index comprised of other eligible investments 5459  
provided for in division (A)(1) or (2) of this section, is not a 5460  
derivative, provided that such variable rate investment has a 5461  
maximum maturity of two years. A treasury inflation-protected 5462  
security shall not be considered a derivative, provided the 5463  
security matures not later than five years after purchase. 5464

(C) Except for the investments described in division (A)(13) 5465  
of this section or as provided in ~~divisions~~ division (D) and (O) 5466  
of this section, any investment made pursuant to this section must 5467  
mature within ~~ten~~ five years from the date of settlement, ~~unless~~ 5468  
~~the investment is matched to a specific obligation or debt of the~~ 5469  
~~county or to a specific obligation or debt of a political~~ 5470  
~~subdivision of this state, and the investment is specifically~~ 5471  
~~approved by the investment advisory committee.~~ 5472

(D) The investing authority may also enter into a written 5473  
repurchase agreement with any eligible institution mentioned in 5474  
section 135.32 of the Revised Code or any eligible securities 5475  
dealer pursuant to division (J) of this section, under the terms 5476  
of which agreement the investing authority purchases and the 5477  
eligible institution or dealer agrees unconditionally to 5478

repurchase any of the securities listed in divisions (B)(1) to 5479  
(5), except letters of credit described in division (B)(2), of 5480  
section 135.18 of the Revised Code. The market value of securities 5481  
subject to an overnight written repurchase agreement must exceed 5482  
the principal value of the overnight written repurchase agreement 5483  
by at least two per cent. A written repurchase agreement must 5484  
exceed the principal value of the overnight written repurchase 5485  
agreement, by at least two per cent. A written repurchase 5486  
agreement shall not exceed thirty days, and the market value of 5487  
securities subject to a written repurchase agreement must exceed 5488  
the principal value of the written repurchase agreement by at 5489  
least two per cent and be marked to market daily. All securities 5490  
purchased pursuant to this division shall be delivered into the 5491  
custody of the investing authority or the qualified custodian of 5492  
the investing authority or an agent designated by the investing 5493  
authority. A written repurchase agreement with an eligible 5494  
securities dealer shall be transacted on a delivery versus payment 5495  
basis. The agreement shall contain the requirement that for each 5496  
transaction pursuant to the agreement the participating 5497  
institution shall provide all of the following information: 5498

(1) The par value of the securities; 5499

(2) The type, rate, and maturity date of the securities; 5500

(3) A numerical identifier generally accepted in the 5501  
securities industry that designates the securities. 5502

No investing authority shall enter into a written repurchase 5503  
agreement under the terms of which the investing authority agrees 5504  
to sell securities owned by the county to a purchaser and agrees 5505  
with that purchaser to unconditionally repurchase those 5506  
securities. 5507

(E) No investing authority shall make an investment under 5508  
this section, unless the investing authority, at the time of 5509

making the investment, reasonably expects that the investment can 5510  
be held until its maturity. The investing authority's written 5511  
investment policy shall specify the conditions under which an 5512  
investment may be redeemed or sold prior to maturity. 5513

(F) No investing authority shall pay a county's inactive 5514  
moneys or moneys of a county public library fund into a fund 5515  
established by another subdivision, treasurer, governing board, or 5516  
investing authority, if that fund was established by the 5517  
subdivision, treasurer, governing board, or investing authority 5518  
for the purpose of investing or depositing the public moneys of 5519  
other subdivisions. This division does not apply to the payment of 5520  
public moneys into either of the following: 5521

(1) The Ohio subdivision's fund pursuant to division (A)(6) 5522  
of this section; 5523

(2) A fund created solely for the purpose of acquiring, 5524  
constructing, owning, leasing, or operating municipal utilities 5525  
pursuant to the authority provided under section 715.02 of the 5526  
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 5527

For purposes of division (F) of this section, "subdivision" 5528  
includes a county. 5529

(G) The use of leverage, in which the county uses its current 5530  
investment assets as collateral for the purpose of purchasing 5531  
other assets, is prohibited. The issuance of taxable notes for the 5532  
purpose of arbitrage is prohibited. Contracting to sell securities 5533  
not owned by the county, for the purpose of purchasing such 5534  
securities on the speculation that bond prices will decline, is 5535  
prohibited. 5536

(H) Any securities, certificates of deposit, deposit 5537  
accounts, or any other documents evidencing deposits or 5538  
investments made under authority of this section shall be issued 5539  
in the name of the county with the county treasurer or investing 5540

authority as the designated payee. If any such deposits or 5541  
investments are registrable either as to principal or interest, or 5542  
both, they shall be registered in the name of the treasurer. 5543

(I) The investing authority shall be responsible for the 5544  
safekeeping of all documents evidencing a deposit or investment 5545  
acquired under this section, including, but not limited to, 5546  
safekeeping receipts evidencing securities deposited with a 5547  
qualified trustee, as provided in section 135.37 of the Revised 5548  
Code, and documents confirming the purchase of securities under 5549  
any repurchase agreement under this section shall be deposited 5550  
with a qualified trustee, provided, however, that the qualified 5551  
trustee shall be required to report to the investing authority, 5552  
auditor of state, or an authorized outside auditor at any time 5553  
upon request as to the identity, market value, and location of the 5554  
document evidencing each security, and that if the participating 5555  
institution is a designated depository of the county for the 5556  
current period of designation, the securities that are the subject 5557  
of the repurchase agreement may be delivered to the treasurer or 5558  
held in trust by the participating institution on behalf of the 5559  
investing authority. 5560

Upon the expiration of the term of office of an investing 5561  
authority or in the event of a vacancy in the office for any 5562  
reason, the officer or the officer's legal representative shall 5563  
transfer and deliver to the officer's successor all documents 5564  
mentioned in this division for which the officer has been 5565  
responsible for safekeeping. For all such documents transferred 5566  
and delivered, the officer shall be credited with, and the 5567  
officer's successor shall be charged with, the amount of moneys 5568  
evidenced by such documents. 5569

(J)(1) All investments, except for investments in securities 5570  
described in divisions (A)(5), (6), ~~and (12)~~, and (13) of this 5571  
section, shall be made only through a member of the national 5572

association of securities dealers, through a bank, savings bank, 5573  
or savings and loan association regulated by the superintendent of 5574  
financial institutions, or through an institution regulated by the 5575  
comptroller of the currency, federal deposit insurance 5576  
corporation, or board of governors of the federal reserve system. 5577

(2) Payment for investments shall be made only upon the 5578  
delivery of securities representing such investments to the 5579  
treasurer, investing authority, or qualified trustee. If the 5580  
securities transferred are not represented by a certificate, 5581  
payment shall be made only upon receipt of confirmation of 5582  
transfer from the custodian by the treasurer, governing board, or 5583  
qualified trustee. 5584

(K)(1) Except as otherwise provided in division (K)(2) of 5585  
this section, no investing authority shall make an investment or 5586  
deposit under this section, unless there is on file with the 5587  
auditor of state a written investment policy approved by the 5588  
investing authority. The policy shall require that all entities 5589  
conducting investment business with the investing authority shall 5590  
sign the investment policy of that investing authority. All 5591  
brokers, dealers, and financial institutions, described in 5592  
division (J)(1) of this section, initiating transactions with the 5593  
investing authority by giving advice or making investment 5594  
recommendations shall sign the investing authority's investment 5595  
policy thereby acknowledging their agreement to abide by the 5596  
policy's contents. All brokers, dealers, and financial 5597  
institutions, described in division (J)(1) of this section, 5598  
executing transactions initiated by the investing authority, 5599  
having read the policy's contents, shall sign the investment 5600  
policy thereby acknowledging their comprehension and receipt. 5601

(2) If a written investment policy described in division 5602  
(K)(1) of this section is not filed on behalf of the county with 5603  
the auditor of state, the investing authority of that county shall 5604

invest the county's inactive moneys and moneys of the county 5605  
public library fund only in time certificates of deposits or 5606  
savings or deposit accounts pursuant to division (A)(3) of this 5607  
section, no-load money market mutual funds pursuant to division 5608  
(A)(5) of this section, or the Ohio subdivision's fund pursuant to 5609  
division (A)(6) of this section. 5610

(L)(1) The investing authority shall establish and maintain 5611  
an inventory of all obligations and securities acquired by the 5612  
investing authority pursuant to this section. The inventory shall 5613  
include a description of each obligation or security, including 5614  
type, cost, par value, maturity date, settlement date, and any 5615  
coupon rate. 5616

(2) The investing authority shall also keep a complete record 5617  
of all purchases and sales of the obligations and securities made 5618  
pursuant to this section. 5619

(3) The investing authority shall maintain a monthly 5620  
portfolio report and issue a copy of the monthly portfolio report 5621  
describing such investments to the county investment advisory 5622  
committee, detailing the current inventory of all obligations and 5623  
securities, all transactions during the month that affected the 5624  
inventory, any income received from the obligations and 5625  
securities, and any investment expenses paid, and stating the 5626  
names of any persons effecting transactions on behalf of the 5627  
investing authority. 5628

(4) The monthly portfolio report shall be a public record and 5629  
available for inspection under section 149.43 of the Revised Code. 5630

(5) The inventory and the monthly portfolio report shall be 5631  
filed with the board of county commissioners. The monthly 5632  
portfolio report also shall be filed with the treasurer of state. 5633

(M) An investing authority may enter into a written 5634  
investment or deposit agreement that includes a provision under 5635

which the parties agree to submit to nonbinding arbitration to 5636  
settle any controversy that may arise out of the agreement, 5637  
including any controversy pertaining to losses of public moneys 5638  
resulting from investment or deposit. The arbitration provision 5639  
shall be set forth entirely in the agreement, and the agreement 5640  
shall include a conspicuous notice to the parties that any party 5641  
to the arbitration may apply to the court of common pleas of the 5642  
county in which the arbitration was held for an order to vacate, 5643  
modify, or correct the award. Any such party may also apply to the 5644  
court for an order to change venue to a court of common pleas 5645  
located more than one hundred miles from the county in which the 5646  
investing authority is located. 5647

For purposes of this division, "investment or deposit 5648  
agreement" means any agreement between an investing authority and 5649  
a person, under which agreement the person agrees to invest, 5650  
deposit, or otherwise manage, on behalf of the investing 5651  
authority, a county's inactive moneys or moneys in a county public 5652  
library fund, or agrees to provide investment advice to the 5653  
investing authority. 5654

(N) An investment held in the county portfolio on September 5655  
27, 1996, that was a legal investment under the law as it existed 5656  
before September 27, 1996, may be held until maturity, or if the 5657  
investment does not have a maturity date the investment may be 5658  
held until five years from September 27, 1996, regardless of 5659  
whether the investment would qualify as a legal investment under 5660  
the terms of this section as amended. 5661

~~(O) Upon a majority affirmative vote of the county investment 5662  
advisory committee in support of such action, an investment 5663  
authority may invest up to twenty five per cent of the county's 5664  
total average portfolio of investments made under this section in 5665  
securities and obligations that mature on a date that is more than 5666  
ten years from the date of settlement. 5667~~

Sec. 140.01. As used in this chapter: 5668

(A) "Hospital agency" means any public hospital agency or any 5669  
nonprofit hospital agency. 5670

(B) "Public hospital agency" means any county, board of 5671  
county hospital trustees established pursuant to section 339.02 of 5672  
the Revised Code, county hospital commission established pursuant 5673  
to section 339.14 of the Revised Code, municipal corporation, new 5674  
community authority organized under Chapter 349. of the Revised 5675  
Code, joint township hospital district, state or municipal 5676  
university or college operating or authorized to operate a 5677  
hospital facility, or the state. 5678

(C) "Nonprofit hospital agency" means a corporation or 5679  
association not for profit, no part of the net earnings of which 5680  
inures or may lawfully inure to the benefit of any private 5681  
shareholder or individual, that has authority to own or operate a 5682  
hospital facility or provides or is to provide services to one or 5683  
more other hospital agencies. 5684

(D) "Governing body" means, in the case of a county, the 5685  
board of county commissioners or other legislative body; in the 5686  
case of a board of county hospital trustees, the board; in the 5687  
case of a county hospital commission, the commission; in the case 5688  
of a municipal corporation, the council or other legislative 5689  
authority; in the case of a new community authority, its board of 5690  
trustees; in the case of a joint township hospital district, the 5691  
joint township district hospital board; in the case of a state or 5692  
municipal university or college, its board of trustees or board of 5693  
directors; in the case of a nonprofit hospital agency, the board 5694  
of trustees or other body having general management of the agency; 5695  
and, in the case of the state, the director of development or the 5696  
Ohio higher educational facility commission. 5697

(E) "Hospital facilities" means buildings, structures and 5698

other improvements, additions thereto and extensions thereof, 5699  
furnishings, equipment, and real estate and interests in real 5700  
estate, used or to be used for or in connection with one or more 5701  
hospitals, emergency, intensive, intermediate, extended, 5702  
long-term, or self-care facilities, diagnostic and treatment and 5703  
out-patient facilities, facilities related to programs for home 5704  
health services, clinics, laboratories, public health centers, 5705  
research facilities, and rehabilitation facilities, for or 5706  
pertaining to diagnosis, treatment, care, or rehabilitation of 5707  
sick, ill, injured, infirm, impaired, disabled, or handicapped 5708  
persons, or the prevention, detection, and control of disease, and 5709  
also includes education, training, and food service facilities for 5710  
health professions personnel, housing facilities for such 5711  
personnel and their families, and parking and service facilities 5712  
in connection with any of the foregoing; and includes any one, 5713  
part of, or any combination of the foregoing; and further includes 5714  
site improvements, utilities, machinery, facilities, furnishings, 5715  
and any separate or connected buildings, structures, improvements, 5716  
sites, utilities, facilities, or equipment to be used in, or in 5717  
connection with the operation or maintenance of, or supplementing 5718  
or otherwise related to the services or facilities to be provided 5719  
by, any one or more of such hospital facilities. 5720

(F) "Costs of hospital facilities" means the costs of 5721  
acquiring hospital facilities or interests in hospital facilities, 5722  
including membership interests in nonprofit hospital agencies, 5723  
costs of constructing hospital facilities, costs of improving one 5724  
or more hospital facilities, including reconstructing, 5725  
rehabilitating, remodeling, renovating, and enlarging, costs of 5726  
equipping and furnishing such facilities, and all financing costs 5727  
pertaining thereto, including, without limitation thereto, costs 5728  
of engineering, architectural, and other professional services, 5729  
designs, plans, specifications and surveys, and estimates of cost, 5730  
costs of tests and inspections, the costs of any indemnity or 5731

surety bonds and premiums on insurance, all related direct or 5732  
allocable administrative expenses pertaining thereto, fees and 5733  
expenses of trustees, depositories, and paying agents for the 5734  
obligations, cost of issuance of the obligations and financing 5735  
charges and fees and expenses of financial advisors, attorneys, 5736  
accountants, consultants and rating services in connection 5737  
therewith, capitalized interest on the obligations, amounts 5738  
necessary to establish reserves as required by the bond 5739  
proceedings, the reimbursement of all moneys advanced or applied 5740  
by the hospital agency or others or borrowed from others for the 5741  
payment of any item or items of costs of such facilities, and all 5742  
other expenses necessary or incident to planning or determining 5743  
feasibility or practicability with respect to such facilities, and 5744  
such other expenses as may be necessary or incident to the 5745  
acquisition, construction, reconstruction, rehabilitation, 5746  
remodeling, renovation, enlargement, improvement, equipment, and 5747  
furnishing of such facilities, the financing thereof, and the 5748  
placing of the same in use and operation, including any one, part 5749  
of, or combination of such classes of costs and expenses, and 5750  
means the costs of refinancing obligations issued by, or 5751  
reimbursement of money advanced by, nonprofit hospital agencies or 5752  
others the proceeds of which were used for the payment of costs of 5753  
hospital facilities, if the governing body of the public hospital 5754  
agency determines that the refinancing or reimbursement advances 5755  
the purposes of this chapter, whether or not the refinancing or 5756  
reimbursement is in conjunction with the acquisition or 5757  
construction of additional hospital facilities. 5758

(G) "Hospital receipts" means all moneys received by or on 5759  
behalf of a hospital agency from or in connection with the 5760  
ownership, operation, acquisition, construction, improvement, 5761  
equipping, or financing of any hospital facilities, including, 5762  
without limitation thereto, any rentals and other moneys received 5763  
from the lease, sale, or other disposition of hospital facilities, 5764

and any gifts, grants, interest subsidies, or other moneys 5765  
received under any federal program for assistance in financing the 5766  
costs of hospital facilities, and any other gifts, grants, and 5767  
donations, and receipts therefrom, available for financing the 5768  
costs of hospital facilities. 5769

(H) "Obligations" means bonds, notes, or other evidences of 5770  
indebtedness or obligation, including interest coupons pertaining 5771  
thereto, issued or issuable by a public hospital agency to pay 5772  
costs of hospital facilities. 5773

(I) "Bond service charges" means principal, interest, and 5774  
call premium, if any, required to be paid on obligations. 5775

(J) "Bond proceedings" means one or more ordinances, 5776  
resolutions, trust agreements, indentures, and other agreements or 5777  
documents, and amendments and supplements to the foregoing, or any 5778  
combination thereof, authorizing or providing for the terms, 5779  
including any variable interest rates, and conditions applicable 5780  
to, or providing for the security of, obligations and the 5781  
provisions contained in such obligations. 5782

(K) "Nursing home" has the same meaning as in division (A)(1) 5783  
of section 5701.13 of the Revised Code. 5784

(L) "Residential care facility" has the same meaning as in 5785  
division (A)(2) of section 5701.13 of the Revised Code. 5786

(M) ~~"Adult care facility" has the same meaning as in division~~ 5787  
~~(A)(3) of section 5701.13 of the Revised Code.~~ 5788

~~(N)~~ "Independent living facility" means any self-care 5789  
facility or other housing facility designed or used as a residence 5790  
for elderly persons. An "independent living facility" does not 5791  
include a residential facility, or that part of a residential 5792  
facility, that is any of the following: 5793

(1) A hospital required to be certified by section 3727.02 of 5794

|  |      |
|--|------|
| the Revised Code;  | 5795 |
| (2) A nursing home or residential care facility;                             | 5796 |
| (3) <del>An adult care facility;</del>                                       | 5797 |
| <del>(4) A <u>facility operated by a hospice care program</u> licensed</del> | 5798 |
| under section 3712.04 of the Revised Code <u>and used for the</u>            | 5799 |
| <u>program's hospice patients;</u>   | 5800 |
| <u>(4) A residential facility licensed by the department of</u>              | 5801 |
| <u>mental health under section 5119.22 of the Revised Code that</u>          | 5802 |
| <u>provides accommodations, supervision, and personal care services</u>      | 5803 |
| <u>for three to sixteen unrelated adults;</u>                                | 5804 |
| (5) A residential facility <del>for the mentally ill</del> licensed by       | 5805 |
| the department of mental health under section 5119.22 of the                 | 5806 |
| Revised Code <u>that is not a residential facility described in</u>          | 5807 |
| <u>division (M)(4) of this section;</u>                                      | 5808 |
| (6) A facility licensed to provide methadone treatment under                 | 5809 |
| section 3793.11 of the Revised Code;   | 5810 |
| (7) A facility certified as an alcohol and drug addiction                    | 5811 |
| program under section 3793.06 of the Revised Code;                           | 5812 |
| (8) A residential facility licensed under section 5123.19 of                 | 5813 |
| the Revised Code or a facility providing services under a contract           | 5814 |
| with the department of developmental disabilities under section              | 5815 |
| 5123.18 of the Revised Code;   | 5816 |
| (9) A residential facility used as part of a hospital to                     | 5817 |
| provide housing for staff of the hospital or students pursuing a             | 5818 |
| course of study at the hospital.   | 5819 |
| <b>Sec. 140.03.</b> (A) Two or more hospital agencies may enter into         | 5820 |
| agreements for the acquisition, construction, reconstruction,                | 5821 |
| rehabilitation, remodeling, renovating, enlarging, equipping, and            | 5822 |
| furnishing of hospital facilities, or the management, operation,             | 5823 |

occupancy, use, maintenance, and repair of hospital facilities, or 5824  
for participation in programs, projects, activities, and services 5825  
useful to, connected with, supplementing, or otherwise related to 5826  
the services provided by, or the operation of, hospital facilities 5827  
operated by one or more participating hospital agencies, including 5828  
any combination of such purposes, all in such manner as to promote 5829  
the public purpose stated in section 140.02 of the Revised Code. A 5830  
city health district; general health district; board of alcohol, 5831  
drug addiction, and mental health services; county board of 5832  
developmental disabilities; the department of mental health; the 5833  
department of developmental disabilities; or any public body 5834  
engaged in the education or training of health professions 5835  
personnel may join in any such agreement for purposes related to 5836  
its authority under laws applicable to it, and as such a 5837  
participant shall be considered a public hospital agency or 5838  
hospital agency for the purposes of this section. 5839

(B) An agreement entered into under authority of this section 5840  
shall, where appropriate, provide for: 5841

(1) The manner in which the title to the hospital facilities, 5842  
including the sites and interest in real estate pertaining 5843  
thereto, is to be held, transferred, or disposed of; 5844

(2) Unless provided for by lease pursuant to section 140.05 5845  
of the Revised Code, the method by which such hospital facilities 5846  
are to be acquired, constructed, or otherwise improved and by 5847  
which they shall be managed, occupied, maintained, and repaired, 5848  
including the designation of one of the hospital agencies to have 5849  
charge of the details of acquisition, construction, or improvement 5850  
pursuant to the contracting procedures prescribed under the law 5851  
applicable to one of the participating public hospital agencies; 5852

(3) The management or administration of any such programs, 5853  
projects, activities, or services, which may include management or 5854  
administration by one of said hospital agencies or a board or 5855

agency thereof; 5856

(4) Annual, or more frequent, reports to the participating 5857  
hospital agencies as to the revenues and receipts pertaining to 5858  
the subject of the agreement, the expenditures thereof, the status 5859  
and application of other funds contributed under such agreement, 5860  
and such other matters as may be specified by or pursuant to such 5861  
agreement; 5862

(5) The manner of apportionment or sharing of costs of 5863  
hospital facilities, any other applicable costs of management, 5864  
operation, maintenance, and repair of hospital facilities, and 5865  
costs for the programs, projects, activities, and services forming 5866  
the subject of the agreement, which apportionment or sharing may 5867  
be prescribed in fixed amounts, or determined by ratios, formulas, 5868  
or otherwise, and paid as service charges, rentals, or in such 5869  
other manner as provided in the agreement, and may include amounts 5870  
sufficient to meet the bond service charges and other payments and 5871  
deposits required under the bond proceedings for obligations 5872  
issued to pay costs of hospital facilities. A hospital agency may 5873  
commit itself to make such payments at least for so long as any 5874  
such obligations are outstanding. In the apportionment, different 5875  
classes of costs or expenses may be apportioned to one or more, 5876  
all or less than all, of the participating hospital agencies as 5877  
determined under such agreement. 5878

(C) An agreement entered into under authority of this section 5879  
may provide for: 5880

(1) An orderly process for making determinations or advising 5881  
as to planning, execution, implementation, and operation, which 5882  
may include designating one of the hospital agencies, or a board 5883  
thereof, for any of such purposes, provisions for a committee, 5884  
board, or commission, and for representation thereon, or as may 5885  
otherwise be provided; 5886

|  |                                      |
|--|--------------------------------------|
| (2) Securing necessary personnel, including participation of personnel from the respective hospital agencies;  | 5887<br>5888                         |
| (3) Standards or conditions for the admission or participation of patients and physicians;   | 5889<br>5890                         |
| (4) Conditions for admittance of other hospital agencies to participation under the agreement;   | 5891<br>5892                         |
| (5) Fixing or establishing the method of determining charges to be made for particular services;   | 5893<br>5894                         |
| (6) The manner of amending, supplementing, terminating, or withdrawal or removal of any party from, the agreement, and the term of the agreement, or an indefinite term;   | 5895<br>5896<br>5897                 |
| (7) Designation of the applicants for or recipients of any federal, state, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;   | 5898<br>5899<br>5900                 |
| (8) Designation of one or more of the participating hospital agencies to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the agreement;                                   | 5901<br>5902<br>5903<br>5904         |
| (9) Any incidental use of the hospital facilities, or services thereof, by participating public hospital agencies for any of their lawful purposes, which incidental use does not impair the character of the facilities as hospital facilities for any purpose of this chapter; | 5905<br>5906<br>5907<br>5908<br>5909 |
| (10) Such other matters as the parties thereto may agree upon for the purposes of division (A) of this section.  | 5910<br>5911                         |
| (D) For the purpose of paying or contributing its share under an agreement made under this section, a public hospital agency may:  | 5912<br>5913<br>5914                 |
| (1) Expend any moneys from its general fund, and from any other funds not otherwise restricted by law, but including funds   | 5915<br>5916                         |

for permanent improvements of hospital facilities of such public 5917  
hospital agency where the contribution is to be made toward the 5918  
costs of hospital facilities under the agreement, and including 5919  
funds derived from levies for, or receipts available for, 5920  
operating expenses of hospital facilities or services of such 5921  
public hospital agency where the contribution or payment is to be 5922  
made toward operating expenses of the hospital facilities or 5923  
services under the agreement or for the services provided thereby; 5924

(2) Issue obligations under Chapter 133. or section 140.06, 5925  
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 5926  
3 of Article XVIII, Ohio Constitution, if applicable to such 5927  
public hospital agency, to pay costs of hospital facilities, or 5928  
issue obligations under any other provision of law authorizing 5929  
such public hospital agency to issue obligations for any costs of 5930  
hospital facilities; 5931

(3) Levy taxes under Chapter 5705. or section 513.13 or 5932  
3709.29 of the Revised Code, if applicable to such public hospital 5933  
agency, provided that the purpose of such levy may include the 5934  
provision of funds for either or both permanent improvements and 5935  
current expenses if required for the contribution or payment of 5936  
such hospital agency under such agreement, and each such public 5937  
hospital agency may issue notes in anticipation of any such levy, 5938  
pursuant to the procedures provided in section 5705.191 of the 5939  
Revised Code if the levy is solely for current expenses, and in 5940  
section 5705.193 of the Revised Code if the levy is all or in part 5941  
for permanent improvements; 5942

(4) Contribute real and personal property or interest therein 5943  
without necessity for competitive bidding or public auction on 5944  
disposition of such property. 5945

(E) Any funds provided by public hospital agencies that are 5946  
parties to an agreement entered into under this section shall be 5947  
transferred to and placed in a separate fund or funds of such 5948

participating public hospital agency as is designated under the 5949  
agreement. The funds shall be applied for the purposes provided in 5950  
such agreement and are subject to audit. Pursuant to any 5951  
determinations to be made under such agreement, the funds shall be 5952  
deposited, invested, and disbursed under the provisions of law 5953  
applicable to the public hospital agency in whose custody the 5954  
funds are held. This division is subject to the provisions of any 5955  
applicable bond proceedings under section 133.08, 140.06, 339.15, 5956  
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 5957  
Constitution. The records and reports of such public hospital 5958  
agency under Chapter 117. of the Revised Code and sections 3702.51 5959  
to 3702.62 of the Revised Code, with respect to the funds shall be 5960  
sufficient without necessity for reports thereon by the other 5961  
public hospital agencies participating under such agreement. 5962

(F)(1) Prior to its entry into any such agreement, the public 5963  
hospital agency must determine, and set forth in a resolution or 5964  
ordinance, that the contribution to be made by it under such 5965  
agreement will be fair consideration for value and benefit to be 5966  
derived by it under such agreement and that the agreement will 5967  
promote the public purpose stated in section 140.02 of the Revised 5968  
Code. 5969

(2) If the agreement is with a board of county commissioners, 5970  
board of county hospital trustees, or county hospital commission 5971  
and is an initial agreement for the acquisition or operation of a 5972  
county hospital operated by a board of county hospital trustees 5973  
under section 339.06 of the Revised Code, the governing body of 5974  
the public hospital agency shall submit the agreement, accompanied 5975  
by the resolution or ordinance, to the board of county 5976  
commissioners for review pursuant to section 339.091 of the 5977  
Revised Code. The agreement may be entered into only if the board 5978  
of county commissioners adopts a resolution under that section. 5979  
The requirements of division (F)(2) of this section do not apply 5980

to the agreement if one or more hospitals classified as general 5981  
hospitals by the ~~public~~ director of health council under section 5982  
3701.07 of the Revised Code are operating in the same county as 5983  
the county hospital. 5984

**Sec. 140.05.** (A)(1) A public hospital agency may lease any 5985  
hospital facility to one or more hospital agencies for use as a 5986  
hospital facility, or to one or more city or general health 5987  
districts; boards of alcohol, drug addiction, and mental health 5988  
services; county boards of developmental disabilities; the 5989  
department of mental health; or the department of developmental 5990  
disabilities, for uses which they are authorized to make thereof 5991  
under the laws applicable to them, or any combination of them, and 5992  
they may lease such facilities to or from a hospital agency for 5993  
such uses, upon such terms and conditions as are agreed upon by 5994  
the parties. Such lease may be for a term of fifty years or less 5995  
and may provide for an option of the lessee to renew for a term of 5996  
fifty years or less, as therein set forth. Prior to entering into 5997  
such lease, the governing body of any public hospital agency 5998  
granting such lease must determine, and set forth in a resolution 5999  
or ordinance, that such lease will promote the public purpose 6000  
stated in section 140.02 of the Revised Code and that the lessor 6001  
public hospital agency will be duly benefited thereby. 6002

(2) If the lease is with a board of county commissioners, 6003  
board of county hospital trustees, or county hospital commission 6004  
and is an agreement for the initial lease of a county hospital 6005  
operated by a board of county hospital trustees under section 6006  
339.06 of the Revised Code, the governing body of the public 6007  
hospital agency shall submit the agreement, accompanied by the 6008  
resolution or ordinance, to the board of county commissioners for 6009  
review pursuant to section 339.091 of the Revised Code. The 6010  
agreement may be entered into only if the board of county 6011  
commissioners adopts a resolution under that section. The 6012

requirements of division (A)(2) of this section do not apply to 6013  
the lease if one or more hospitals classified as general hospitals 6014  
by the ~~public~~ director of health council under section 3701.07 of 6015  
the Revised Code are operating in the same county as the county 6016  
hospital. 6017

(B) Any lease entered into pursuant to this section shall 6018  
provide that in the event that the lessee fails faithfully and 6019  
efficiently to administer, maintain, and operate such leased 6020  
facilities as hospital facilities, or fails to provide the 6021  
services thereof without regard to race, creed, color, or national 6022  
origin, or fails to require that any hospital agency using such 6023  
facilities or the services thereof shall not discriminate by 6024  
reason of race, creed, color, or national origin, after an 6025  
opportunity to be heard upon written charges, said lease may be 6026  
terminated at the time, in the manner and with consequences 6027  
therein provided. If any such lease does not contain terms to the 6028  
effect provided in this division, it shall nevertheless be deemed 6029  
to contain such terms which shall be implemented as determined by 6030  
the governing body of the lessor. 6031

(C) Such lease may provide for rentals commencing at any time 6032  
agreed upon, or advance rental, and continuing for such period 6033  
therein provided, notwithstanding and without diminution, rebate, 6034  
or setoff by reason of time of availability of the hospital 6035  
facility for use, delays in construction, failure of completion, 6036  
damage or destruction of the hospital facilities, or for any other 6037  
reason. 6038

(D) Such lease may provide for the sale or transfer of title 6039  
of the leased facilities pursuant to an option to purchase, 6040  
lease-purchase, or installment purchase upon terms therein 6041  
provided or to be determined as therein provided, which may 6042  
include provision for the continued use thereof as a hospital 6043  
facility for some reasonable period, taking into account efficient 6044

useful life and other factors, as is provided therein. 6045

(E) Such lease may be entered as part of or in connection 6046  
with an agreement pursuant to section 140.03 of the Revised Code. 6047  
Any hospital facilities which are the subject of an agreement 6048  
entered into under section 140.03 of the Revised Code may be 6049  
leased pursuant to this section. 6050

(F) If land acquired by a public hospital agency for a 6051  
hospital facility is adjacent to an existing hospital facility 6052  
owned by another hospital agency, the public hospital agency may, 6053  
in connection with such acquisition or the leasing of such land 6054  
and hospital facilities thereon to one or more hospital agencies, 6055  
enter into an agreement with the hospital agency which owns such 6056  
adjacent hospital facility for the use of common walls in the 6057  
construction, operation, or maintenance of hospital facilities of 6058  
the public hospital agency. For the purpose of construction, 6059  
operation, or maintenance of hospital facilities, a public 6060  
hospital agency may acquire by purchase, gift, lease, lease with 6061  
option to purchase, lease-purchase, or installment purchase, 6062  
easement deed, or other agreement, real estate and interests in 6063  
real estate, including rights to use space over, under or upon 6064  
real property owned by others, and support, access, common wall, 6065  
and other rights in connection therewith. Any public hospital 6066  
agency or other political subdivision or any public agency, board, 6067  
commission, institution, body, or instrumentality may grant such 6068  
real estate, interests, or rights to any hospital agency upon such 6069  
terms as are agreed upon without necessity for competitive bidding 6070  
or public auction. 6071

**Sec. 140.08.** (A) Except as otherwise provided in divisions 6072  
(B)(1) and (2) of this section, all hospital facilities purchased, 6073  
acquired, constructed, or owned by a public hospital agency, or 6074  
financed in whole or in part by obligations issued by a public 6075

hospital agency, and used, or to be used when completed, as 6076  
hospital facilities, and the income therefrom, are exempt from all 6077  
taxation within this state, including ad valorem and excise taxes, 6078  
notwithstanding any other provisions of law, and hospital agencies 6079  
are exempt from taxes levied under Chapters 5739. and 5741. of the 6080  
Revised Code. The obligations issued hereafter under section 6081  
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 6082  
Article XVIII, Ohio Constitution, to pay costs of hospital 6083  
facilities or to refund such obligations, and the transfer 6084  
thereof, and the interest and other income from such obligations, 6085  
including any profit made on the sale thereof, is free from 6086  
taxation within the state. 6087

(B)(1) Division (A) of this section does not exempt 6088  
independent living facilities from taxes levied on property or 6089  
taxes levied under Chapters 5739. and 5741. of the Revised Code. 6090  
If an independent living facility or part of such facility becomes 6091  
~~an adult care facility, nursing home, or residential care facility~~ 6092  
on or after January 10, 1991, a nursing home, residential care 6093  
facility, or residential facility described in division (M)(4) of 6094  
section 140.01 of the Revised Code, that part of the independent 6095  
living facility that is ~~an adult care facility,~~ a nursing home, or 6096  
~~residential care facility,~~ or residential facility described in 6097  
division (M)(4) of section 140.01 of the Revised Code is exempt 6098  
from taxation subject to division (B)(2) of this section on and 6099  
after the date it becomes ~~an adult care facility,~~ a nursing home, 6100  
~~or residential care facility,~~ or residential facility described in 6101  
division (M)(4) of section 140.01 of the Revised Code. 6102

(2) Division (A) of this section exempts nursing homes, 6103  
residential care facilities, and ~~adult care~~ residential facilities 6104  
described in division (M)(4) of section 140.01 of the Revised Code 6105  
from taxes levied on property and taxes levied under Chapters 6106  
5739. and 5741. of the Revised Code only until all obligations 6107

issued to finance such homes or facilities, or all refunding or 6108  
series of refundings of those obligations, are redeemed or 6109  
otherwise retired. 6110

**Sec. 145.01.** As used in this chapter: 6111

(A) "Public employee" means: 6112

(1) Any person holding an office, not elective, under the 6113  
state or any county, township, municipal corporation, park 6114  
district, conservancy district, sanitary district, health 6115  
district, metropolitan housing authority, state retirement board, 6116  
Ohio historical society, public library, county law library, union 6117  
cemetery, joint hospital, institutional commissary, state 6118  
university, or board, bureau, commission, council, committee, 6119  
authority, or administrative body as the same are, or have been, 6120  
created by action of the general assembly or by the legislative 6121  
authority of any of the units of local government named in 6122  
division (A)(1) of this section, or employed and paid in whole or 6123  
in part by the state or any of the authorities named in division 6124  
(A)(1) of this section in any capacity not covered by section 6125  
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 6126

(2) A person who is a member of the public employees 6127  
retirement system and who continues to perform the same or similar 6128  
duties under the direction of a contractor who has contracted to 6129  
take over what before the date of the contract was a publicly 6130  
operated function. The governmental unit with which the contract 6131  
has been made shall be deemed the employer for the purposes of 6132  
administering this chapter. 6133

(3) Any person who is an employee of a public employer, 6134  
notwithstanding that the person's compensation for that employment 6135  
is derived from funds of a person or entity other than the 6136  
employer. Credit for such service shall be included as total 6137  
service credit, provided that the employee makes the payments 6138

required by this chapter, and the employer makes the payments 6139  
required by sections 145.48 and 145.51 of the Revised Code. 6140

(4) A person who elects in accordance with section 145.015 of 6141  
the Revised Code to remain a contributing member of the public 6142  
employees retirement system. 6143

(5) A person who is an employee of the legal rights service 6144  
on September 30, 2012, and continues to be employed by the 6145  
nonprofit entity established under Section 319.20 of Am. Sub. H.B. 6146  
153 of the 129th general assembly. The nonprofit entity is the 6147  
employer for the purpose of this chapter. 6148

In all cases of doubt, the public employees retirement board 6149  
shall determine whether any person is a public employee, and its 6150  
decision is final. 6151

(B) "Member" means any public employee, other than a public 6152  
employee excluded or exempted from membership in the retirement 6153  
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 6154  
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 6155  
retirant who becomes a member under division (C) of section 145.38 6156  
of the Revised Code. "Member" also includes a disability benefit 6157  
recipient. 6158

(C) "Head of the department" means the elective or appointive 6159  
head of the several executive, judicial, and administrative 6160  
departments, institutions, boards, and commissions of the state 6161  
and local government as the same are created and defined by the 6162  
laws of this state or, in case of a charter government, by that 6163  
charter. 6164

(D) "Employer" or "public employer" means the state or any 6165  
county, township, municipal corporation, park district, 6166  
conservancy district, sanitary district, health district, 6167  
metropolitan housing authority, state retirement board, Ohio 6168  
historical society, public library, county law library, union 6169

cemetery, joint hospital, institutional commissary, state medical 6170  
university, state university, or board, bureau, commission, 6171  
council, committee, authority, or administrative body as the same 6172  
are, or have been, created by action of the general assembly or by 6173  
the legislative authority of any of the units of local government 6174  
named in this division not covered by section 742.01, 3307.01, 6175  
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 6176  
means the employer of any public employee. 6177

(E) "Prior service" means all service as a public employee 6178  
rendered before January 1, 1935, and all service as an employee of 6179  
any employer who comes within the state teachers retirement system 6180  
or of the school employees retirement system or of any other 6181  
retirement system established under the laws of this state 6182  
rendered prior to January 1, 1935, provided that if the employee 6183  
claiming the service was employed in any capacity covered by that 6184  
other system after that other system was established, credit for 6185  
the service may be allowed by the public employees retirement 6186  
system only when the employee has made payment, to be computed on 6187  
the salary earned from the date of appointment to the date 6188  
membership was established in the public employees retirement 6189  
system, at the rate in effect at the time of payment, and the 6190  
employer has made payment of the corresponding full liability as 6191  
provided by section 145.44 of the Revised Code. "Prior service" 6192  
also means all service credited for active duty with the armed 6193  
forces of the United States as provided in section 145.30 of the 6194  
Revised Code. 6195

If an employee who has been granted prior service credit by 6196  
the public employees retirement system for service rendered prior 6197  
to January 1, 1935, as an employee of a board of education 6198  
establishes, before retirement, one year or more of contributing 6199  
service in the state teachers retirement system or school 6200  
employees retirement system, then the prior service ceases to be 6201

the liability of this system. 6202

If the board determines that a position of any member in any 6203  
calendar year prior to January 1, 1935, was a part-time position, 6204  
the board shall determine what fractional part of a year's credit 6205  
shall be allowed by the following formula: 6206

(1) When the member has been either elected or appointed to 6207  
an office the term of which was two or more years and for which an 6208  
annual salary is established, the fractional part of the year's 6209  
credit shall be computed as follows: 6210

First, when the member's annual salary is one thousand 6211  
dollars or less, the service credit for each such calendar year 6212  
shall be forty per cent of a year. 6213

Second, for each full one hundred dollars of annual salary 6214  
above one thousand dollars, the member's service credit for each 6215  
such calendar year shall be increased by two and one-half per 6216  
cent. 6217

(2) When the member is paid on a per diem basis, the service 6218  
credit for any single year of the service shall be determined by 6219  
using the number of days of service for which the compensation was 6220  
received in any such year as a numerator and using two hundred 6221  
fifty days as a denominator. 6222

(3) When the member is paid on an hourly basis, the service 6223  
credit for any single year of the service shall be determined by 6224  
using the number of hours of service for which the compensation 6225  
was received in any such year as a numerator and using two 6226  
thousand hours as a denominator. 6227

(F) "Contributor" means any person who has an account in the 6228  
employees' savings fund created by section 145.23 of the Revised 6229  
Code. When used in the sections listed in division (B) of section 6230  
145.82 of the Revised Code, "contributor" includes any person 6231  
participating in a PERS defined contribution plan. 6232

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

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

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the

date membership was established. When that payment has been made 6265  
by all such employee members, a corresponding payment shall be 6266  
paid into the employers' accumulation fund by that municipal 6267  
corporation as the employer of the employees. 6268

(3) Where a member also is a member of the state teachers 6269  
retirement system or the school employees retirement system, or 6270  
both, except in cases of retirement on a combined basis pursuant 6271  
to section 145.37 of the Revised Code or as provided in section 6272  
145.383 of the Revised Code, service credit for any period shall 6273  
be credited on the basis of the ratio that contributions to the 6274  
public employees retirement system bear to total contributions in 6275  
all state retirement systems. 6276

(4) Not more than one year of credit may be given for any 6277  
period of twelve months. 6278

(5) "Ohio service credit" means credit for service that was 6279  
rendered to the state or any of its political subdivisions or any 6280  
employer. 6281

(I) "Regular interest" means interest at any rates for the 6282  
respective funds and accounts as the public employees retirement 6283  
board may determine from time to time. 6284

(J) "Accumulated contributions" means the sum of all amounts 6285  
credited to a contributor's individual account in the employees' 6286  
savings fund together with any interest credited to the 6287  
contributor's account under section 145.471 or 145.472 of the 6288  
Revised Code. 6289

(K)(1) "Final average salary" means the quotient obtained by 6290  
dividing by three the sum of the three full calendar years of 6291  
contributing service in which the member's earnable salary was 6292  
highest, except that if the member has a partial year of 6293  
contributing service in the year the member's employment 6294  
terminates and the member's earnable salary for the partial year 6295

is higher than for any comparable period in the three years, the 6296  
member's earnable salary for the partial year shall be substituted 6297  
for the member's earnable salary for the comparable period during 6298  
the three years in which the member's earnable salary was lowest. 6299

(2) If a member has less than three years of contributing 6300  
service, the member's final average salary shall be the member's 6301  
total earnable salary divided by the total number of years, 6302  
including any fraction of a year, of the member's contributing 6303  
service. 6304

(3) For the purpose of calculating benefits payable to a 6305  
member qualifying for service credit under division (Z) of this 6306  
section, "final average salary" means the total earnable salary on 6307  
which contributions were made divided by the total number of years 6308  
during which contributions were made, including any fraction of a 6309  
year. If contributions were made for less than twelve months, 6310  
"final average salary" means the member's total earnable salary. 6311

(L) "Annuity" means payments for life derived from 6312  
contributions made by a contributor and paid from the annuity and 6313  
pension reserve fund as provided in this chapter. All annuities 6314  
shall be paid in twelve equal monthly installments. 6315

(M) "Annuity reserve" means the present value, computed upon 6316  
the basis of the mortality and other tables adopted by the board, 6317  
of all payments to be made on account of any annuity, or benefit 6318  
in lieu of any annuity, granted to a retirant as provided in this 6319  
chapter. 6320

(N)(1) "Disability retirement" means retirement as provided 6321  
in section 145.36 of the Revised Code. 6322

(2) "Disability allowance" means an allowance paid on account 6323  
of disability under section 145.361 of the Revised Code. 6324

(3) "Disability benefit" means a benefit paid as disability 6325  
retirement under section 145.36 of the Revised Code, as a 6326

disability allowance under section 145.361 of the Revised Code, or 6327  
as a disability benefit under section 145.37 of the Revised Code. 6328

(4) "Disability benefit recipient" means a member who is 6329  
receiving a disability benefit. 6330

(O) "Age and service retirement" means retirement as provided 6331  
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 6332  
the Revised Code. 6333

(P) "Pensions" means annual payments for life derived from 6334  
contributions made by the employer that at the time of retirement 6335  
are credited into the annuity and pension reserve fund from the 6336  
employers' accumulation fund and paid from the annuity and pension 6337  
reserve fund as provided in this chapter. All pensions shall be 6338  
paid in twelve equal monthly installments. 6339

(Q) "Retirement allowance" means the pension plus that 6340  
portion of the benefit derived from contributions made by the 6341  
member. 6342

(R)(1) Except as otherwise provided in division (R) of this 6343  
section, "earnable salary" means all salary, wages, and other 6344  
earnings paid to a contributor by reason of employment in a 6345  
position covered by the retirement system. The salary, wages, and 6346  
other earnings shall be determined prior to determination of the 6347  
amount required to be contributed to the employees' savings fund 6348  
under section 145.47 of the Revised Code and without regard to 6349  
whether any of the salary, wages, or other earnings are treated as 6350  
deferred income for federal income tax purposes. "Earnable salary" 6351  
includes the following: 6352

(a) Payments made by the employer in lieu of salary, wages, 6353  
or other earnings for sick leave, personal leave, or vacation used 6354  
by the contributor; 6355

(b) Payments made by the employer for the conversion of sick 6356  
leave, personal leave, and vacation leave accrued, but not used if 6357

the payment is made during the year in which the leave is accrued, 6358  
except that payments made pursuant to section 124.383 or 124.386 6359  
of the Revised Code are not earnable salary; 6360

(c) Allowances paid by the employer for full maintenance, 6361  
consisting of housing, laundry, and meals, as certified to the 6362  
retirement board by the employer or the head of the department 6363  
that employs the contributor; 6364

(d) Fees and commissions paid under section 507.09 of the 6365  
Revised Code; 6366

(e) Payments that are made under a disability leave program 6367  
sponsored by the employer and for which the employer is required 6368  
by section 145.296 of the Revised Code to make periodic employer 6369  
and employee contributions; 6370

(f) Amounts included pursuant to divisions (K)(3) and (Y) of 6371  
this section. 6372

(2) "Earnable salary" does not include any of the following: 6373

(a) Fees and commissions, other than those paid under section 6374  
507.09 of the Revised Code, paid as sole compensation for personal 6375  
services and fees and commissions for special services over and 6376  
above services for which the contributor receives a salary; 6377

(b) Amounts paid by the employer to provide life insurance, 6378  
sickness, accident, endowment, health, medical, hospital, dental, 6379  
or surgical coverage, or other insurance for the contributor or 6380  
the contributor's family, or amounts paid by the employer to the 6381  
contributor in lieu of providing the insurance; 6382

(c) Incidental benefits, including lodging, food, laundry, 6383  
parking, or services furnished by the employer, or use of the 6384  
employer's property or equipment, or amounts paid by the employer 6385  
to the contributor in lieu of providing the incidental benefits; 6386

(d) Reimbursement for job-related expenses authorized by the 6387

employer, including moving and travel expenses and expenses 6388  
related to professional development; 6389

(e) Payments for accrued but unused sick leave, personal 6390  
leave, or vacation that are made at any time other than in the 6391  
year in which the sick leave, personal leave, or vacation was 6392  
accrued; 6393

(f) Payments made to or on behalf of a contributor that are 6394  
in excess of the annual compensation that may be taken into 6395  
account by the retirement system under division (a)(17) of section 6396  
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 6397  
U.S.C.A. 401(a)(17), as amended; 6398

(g) Payments made under division (B), (C), or (E) of section 6399  
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 6400  
No. 3 of the 119th general assembly, Section 3 of Amended 6401  
Substitute Senate Bill No. 164 of the 124th general assembly, or 6402  
Amended Substitute House Bill No. 405 of the 124th general 6403  
assembly; 6404

(h) Anything of value received by the contributor that is 6405  
based on or attributable to retirement or an agreement to retire, 6406  
except that payments made on or before January 1, 1989, that are 6407  
based on or attributable to an agreement to retire shall be 6408  
included in earnable salary if both of the following apply: 6409

(i) The payments are made in accordance with contract 6410  
provisions that were in effect prior to January 1, 1986; 6411

(ii) The employer pays the retirement system an amount 6412  
specified by the retirement board equal to the additional 6413  
liability resulting from the payments. 6414

(3) The retirement board shall determine by rule whether any 6415  
compensation not enumerated in division (R) of this section is 6416  
earnable salary, and its decision shall be final. 6417

(S) "Pension reserve" means the present value, computed upon 6418  
the basis of the mortality and other tables adopted by the board, 6419  
of all payments to be made on account of any retirement allowance 6420  
or benefit in lieu of any retirement allowance, granted to a 6421  
member or beneficiary under this chapter. 6422

(T)(1) "Contributing service" means all service credited to a 6423  
member of the system since January 1, 1935, for which 6424  
contributions are made as required by sections 145.47, 145.48, and 6425  
145.483 of the Revised Code. In any year subsequent to 1934, 6426  
credit for any service shall be allowed by the following formula: 6427

(a) For each month for which the member's earnable salary is 6428  
two hundred fifty dollars or more, allow one month's credit. 6429

(b) For each month for which the member's earnable salary is 6430  
less than two hundred fifty dollars, allow a fraction of a month's 6431  
credit. The numerator of this fraction shall be the earnable 6432  
salary during the month, and the denominator shall be two hundred 6433  
fifty dollars, except that if the member's annual earnable salary 6434  
is less than six hundred dollars, the member's credit shall not be 6435  
reduced below twenty per cent of a year for a calendar year of 6436  
employment during which the member worked each month. Division 6437  
(T)(1)(b) of this section shall not reduce any credit earned 6438  
before January 1, 1985. 6439

(2) Notwithstanding division (T)(1) of this section, an 6440  
elected official who prior to January 1, 1980, was granted a full 6441  
year of credit for each year of service as an elected official 6442  
shall be considered to have earned a full year of credit for each 6443  
year of service regardless of whether the service was full-time or 6444  
part-time. The public employees retirement board has no authority 6445  
to reduce the credit. 6446

(U) "State retirement board" means the public employees 6447  
retirement board, the school employees retirement board, or the 6448

state teachers retirement board. 6449

(V) "Retirant" means any former member who retires and is 6450  
receiving a monthly allowance as provided in sections 145.32, 6451  
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 6452

(W) "Employer contribution" means the amount paid by an 6453  
employer as determined under section 145.48 of the Revised Code. 6454

(X) "Public service terminates" means the last day for which 6455  
a public employee is compensated for services performed for an 6456  
employer or the date of the employee's death, whichever occurs 6457  
first. 6458

(Y) When a member has been elected or appointed to an office, 6459  
the term of which is two or more years, for which an annual salary 6460  
is established, and in the event that the salary of the office is 6461  
increased and the member is denied the additional salary by reason 6462  
of any constitutional provision prohibiting an increase in salary 6463  
during a term of office, the member may elect to have the amount 6464  
of the member's contributions calculated upon the basis of the 6465  
increased salary for the office. At the member's request, the 6466  
board shall compute the total additional amount the member would 6467  
have contributed, or the amount by which each of the member's 6468  
contributions would have increased, had the member received the 6469  
increased salary for the office the member holds. If the member 6470  
elects to have the amount by which the member's contribution would 6471  
have increased withheld from the member's salary, the member shall 6472  
notify the employer, and the employer shall make the withholding 6473  
and transmit it to the retirement system. A member who has not 6474  
elected to have that amount withheld may elect at any time to make 6475  
a payment to the retirement system equal to the additional amount 6476  
the member's contribution would have increased, plus interest on 6477  
that contribution, compounded annually at a rate established by 6478  
the board and computed from the date on which the last 6479  
contribution would have been withheld from the member's salary to 6480

the date of payment. A member may make a payment for part of the 6481  
period for which the increased contribution was not withheld, in 6482  
which case the interest shall be computed from the date the last 6483  
contribution would have been withheld for the period for which the 6484  
payment is made. Upon the payment of the increased contributions 6485  
as provided in this division, the increased annual salary as 6486  
provided by law for the office for the period for which the member 6487  
paid increased contributions thereon shall be used in determining 6488  
the member's earnable salary for the purpose of computing the 6489  
member's final average salary. 6490

(Z) "Five years of service credit," for the exclusive purpose 6491  
of satisfying the service credit requirements and of determining 6492  
eligibility for benefits under section 145.33 of the Revised Code, 6493  
means employment covered under this chapter or under a former 6494  
retirement plan operated, recognized, or endorsed by the employer 6495  
prior to coverage under this chapter or under a combination of the 6496  
coverage. 6497

(AA) "Deputy sheriff" means any person who is commissioned 6498  
and employed as a full-time peace officer by the sheriff of any 6499  
county, and has been so employed since on or before December 31, 6500  
1965; any person who is or has been commissioned and employed as a 6501  
peace officer by the sheriff of any county since January 1, 1966, 6502  
and who has received a certificate attesting to the person's 6503  
satisfactory completion of the peace officer training school as 6504  
required by section 109.77 of the Revised Code; or any person 6505  
deputized by the sheriff of any county and employed pursuant to 6506  
section 2301.12 of the Revised Code as a criminal bailiff or court 6507  
constable who has received a certificate attesting to the person's 6508  
satisfactory completion of the peace officer training school as 6509  
required by section 109.77 of the Revised Code. 6510

(BB) "Township constable or police officer in a township 6511  
police department or district" means any person who is 6512

commissioned and employed as a full-time peace officer pursuant to 6513  
Chapter 505. or 509. of the Revised Code, who has received a 6514  
certificate attesting to the person's satisfactory completion of 6515  
the peace officer training school as required by section 109.77 of 6516  
the Revised Code. 6517

(CC) "Drug agent" means any person who is either of the 6518  
following: 6519

(1) Employed full time as a narcotics agent by a county 6520  
narcotics agency created pursuant to section 307.15 of the Revised 6521  
Code and has received a certificate attesting to the satisfactory 6522  
completion of the peace officer training school as required by 6523  
section 109.77 of the Revised Code; 6524

(2) Employed full time as an undercover drug agent as defined 6525  
in section 109.79 of the Revised Code and is in compliance with 6526  
section 109.77 of the Revised Code. 6527

(DD) "Department of public safety enforcement agent" means a 6528  
full-time employee of the department of public safety who is 6529  
designated under section 5502.14 of the Revised Code as an 6530  
enforcement agent and who is in compliance with section 109.77 of 6531  
the Revised Code. 6532

(EE) "Natural resources law enforcement staff officer" means 6533  
a full-time employee of the department of natural resources who is 6534  
designated a natural resources law enforcement staff officer under 6535  
section 1501.013 of the Revised Code and is in compliance with 6536  
section 109.77 of the Revised Code. 6537

(FF) "Park officer" means a full-time employee of the 6538  
department of natural resources who is designated a park officer 6539  
under section 1541.10 of the Revised Code and is in compliance 6540  
with section 109.77 of the Revised Code. 6541

(GG) "Forest officer" means a full-time employee of the 6542  
department of natural resources who is designated a forest officer 6543

under section 1503.29 of the Revised Code and is in compliance 6544  
with section 109.77 of the Revised Code. 6545

(HH) "Preserve officer" means a full-time employee of the 6546  
department of natural resources who is designated a preserve 6547  
officer under section 1517.10 of the Revised Code and is in 6548  
compliance with section 109.77 of the Revised Code. 6549

(II) "Wildlife officer" means a full-time employee of the 6550  
department of natural resources who is designated a wildlife 6551  
officer under section 1531.13 of the Revised Code and is in 6552  
compliance with section 109.77 of the Revised Code. 6553

(JJ) "State watercraft officer" means a full-time employee of 6554  
the department of natural resources who is designated a state 6555  
watercraft officer under section 1547.521 of the Revised Code and 6556  
is in compliance with section 109.77 of the Revised Code. 6557

(KK) "Park district police officer" means a full-time 6558  
employee of a park district who is designated pursuant to section 6559  
511.232 or 1545.13 of the Revised Code and is in compliance with 6560  
section 109.77 of the Revised Code. 6561

(LL) "Conservancy district officer" means a full-time 6562  
employee of a conservancy district who is designated pursuant to 6563  
section 6101.75 of the Revised Code and is in compliance with 6564  
section 109.77 of the Revised Code. 6565

(MM) "Municipal police officer" means a member of the 6566  
organized police department of a municipal corporation who is 6567  
employed full time, is in compliance with section 109.77 of the 6568  
Revised Code, and is not a member of the Ohio police and fire 6569  
pension fund. 6570

(NN) "Veterans' home police officer" means any person who is 6571  
employed at a veterans' home as a police officer pursuant to 6572  
section 5907.02 of the Revised Code and is in compliance with 6573  
section 109.77 of the Revised Code. 6574

(OO) "Special police officer for a mental health institution" 6575  
means any person who is designated as such pursuant to section 6576  
5119.14 of the Revised Code and is in compliance with section 6577  
109.77 of the Revised Code. 6578

(PP) "Special police officer for an institution for the 6579  
mentally retarded and developmentally disabled" means any person 6580  
who is designated as such pursuant to section 5123.13 of the 6581  
Revised Code and is in compliance with section 109.77 of the 6582  
Revised Code. 6583

(QQ) "State university law enforcement officer" means any 6584  
person who is employed full time as a state university law 6585  
enforcement officer pursuant to section 3345.04 of the Revised 6586  
Code and who is in compliance with section 109.77 of the Revised 6587  
Code. 6588

(RR) "House sergeant at arms" means any person appointed by 6589  
the speaker of the house of representatives under division (B)(1) 6590  
of section 101.311 of the Revised Code who has arrest authority 6591  
under division (E)(1) of that section. 6592

(SS) "Assistant house sergeant at arms" means any person 6593  
appointed by the house sergeant at arms under division (C)(1) of 6594  
section 101.311 of the Revised Code. 6595

(TT) "Regional transit authority police officer" means a 6596  
person who is employed full time as a regional transit authority 6597  
police officer under division (Y) of section 306.35 of the Revised 6598  
Code and is in compliance with section 109.77 of the Revised Code. 6599

(UU) "State highway patrol police officer" means a special 6600  
police officer employed full time and designated by the 6601  
superintendent of the state highway patrol pursuant to section 6602  
5503.09 of the Revised Code or a person serving full time as a 6603  
special police officer pursuant to that section on a permanent 6604  
basis on October 21, 1997, who is in compliance with section 6605

109.77 of the Revised Code. 6606

(VV) "Municipal public safety director" means a person who 6607  
serves full time as the public safety director of a municipal 6608  
corporation with the duty of directing the activities of the 6609  
municipal corporation's police department and fire department. 6610

(WW) Notwithstanding section 2901.01 of the Revised Code, 6611  
"PERS law enforcement officer" means a sheriff or any of the 6612  
following whose primary duties are to preserve the peace, protect 6613  
life and property, and enforce the laws of this state: a deputy 6614  
sheriff, township constable or police officer in a township police 6615  
department or district, drug agent, department of public safety 6616  
enforcement agent, natural resources law enforcement staff 6617  
officer, park officer, forest officer, preserve officer, wildlife 6618  
officer, state watercraft officer, park district police officer, 6619  
conservancy district officer, veterans' home police officer, 6620  
special police officer for a mental health institution, special 6621  
police officer for an institution for the mentally retarded and 6622  
developmentally disabled, state university law enforcement 6623  
officer, municipal police officer, house sergeant at arms, 6624  
assistant house sergeant at arms, regional transit authority 6625  
police officer, or state highway patrol police officer. PERS law 6626  
enforcement officer also includes a person serving as a municipal 6627  
public safety director at any time during the period from 6628  
September 29, 2005, to March 24, 2009, if the duties of that 6629  
service were to preserve the peace, protect life and property, and 6630  
enforce the laws of this state. 6631

(XX) "Hamilton county municipal court bailiff" means a person 6632  
appointed by the clerk of courts of the Hamilton county municipal 6633  
court under division (A)(3) of section 1901.32 of the Revised Code 6634  
who is employed full time as a bailiff or deputy bailiff, who has 6635  
received a certificate attesting to the person's satisfactory 6636  
completion of the peace officer basic training described in 6637

division (D)(1) of section 109.77 of the Revised Code. 6638

(YY) "PERS public safety officer" means a Hamilton county 6639  
municipal court bailiff, or any of the following whose primary 6640  
duties are other than to preserve the peace, protect life and 6641  
property, and enforce the laws of this state: a deputy sheriff, 6642  
township constable or police officer in a township police 6643  
department or district, drug agent, department of public safety 6644  
enforcement agent, natural resources law enforcement staff 6645  
officer, park officer, forest officer, preserve officer, wildlife 6646  
officer, state watercraft officer, park district police officer, 6647  
conservancy district officer, veterans' home police officer, 6648  
special police officer for a mental health institution, special 6649  
police officer for an institution for the mentally retarded and 6650  
developmentally disabled, state university law enforcement 6651  
officer, municipal police officer, house sergeant at arms, 6652  
assistant house sergeant at arms, regional transit authority 6653  
police officer, or state highway patrol police officer. "PERS 6654  
public safety officer" also includes a person serving as a 6655  
municipal public safety director at any time during the period 6656  
from September 29, 2005, to March 24, 2009, if the duties of that 6657  
service were other than to preserve the peace, protect life and 6658  
property, and enforce the laws of this state. 6659

(ZZ) "Fiduciary" means a person who does any of the 6660  
following: 6661

(1) Exercises any discretionary authority or control with 6662  
respect to the management of the system or with respect to the 6663  
management or disposition of its assets; 6664

(2) Renders investment advice for a fee, direct or indirect, 6665  
with respect to money or property of the system; 6666

(3) Has any discretionary authority or responsibility in the 6667  
administration of the system. 6668

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

- (1) Is a member of the American academy of actuaries;
- (2) Is an associate or fellow of the society of actuaries;
- (3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

(BBB) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code.

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

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

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

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

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

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

(5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service;

(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:

(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;

(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;

(10) Who is a member of the unemployment compensation advisory council;

(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;

(12) Who is employed by the nonprofit entity established to 6728  
provide advocacy services and a client assistance program for 6729  
people with disabilities under Section 319.20 of Am. Sub. H.B. 153 6730  
of the 129th general assembly and whose employment begins on or 6731  
after October 1, 2012. 6732

(B) No inmate of a correctional institution operated by the 6733  
department of rehabilitation and correction, no patient in a 6734  
hospital for the mentally ill or criminally insane operated by the 6735  
department of mental health, no resident in an institution for the 6736  
mentally retarded operated by the department of developmental 6737  
disabilities, no resident admitted as a patient of a veterans' 6738  
home operated under Chapter 5907. of the Revised Code, and no 6739  
resident of a county home shall be considered as a public employee 6740  
for the purpose of establishing membership or calculating service 6741  
credit or benefits under this chapter. Nothing in this division 6742  
shall be construed to affect any service credit attained by any 6743  
person who was a public employee before becoming an inmate, 6744  
patient, or resident at any institution listed in this division, 6745  
or the payment of any benefit for which such a person or such a 6746  
person's beneficiaries otherwise would be eligible. 6747

**Sec. 149.43.** (A) As used in this section: 6748

(1) "Public record" means records kept by any public office, 6749  
including, but not limited to, state, county, city, village, 6750  
township, and school district units, and records pertaining to the 6751  
delivery of educational services by an alternative school in this 6752  
state kept by the nonprofit or for-profit entity operating the 6753  
alternative school pursuant to section 3313.533 of the Revised 6754  
Code. "Public record" does not mean any of the following: 6755

(a) Medical records; 6756

(b) Records pertaining to probation and parole proceedings or 6757  
to proceedings related to the imposition of community control 6758

|   |  |
|---|--|
| sanctions and post-release control sanctions;   | 6759   |
| (c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;  | 6760<br>6761<br>6762                         |
| (d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;  | 6763<br>6764<br>6765                         |
| (e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency; | 6766<br>6767<br>6768<br>6769<br>6770<br>6771 |
| (f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;  | 6772<br>6773<br>6774                         |
| (g) Trial preparation records;  | 6775   |
| (h) Confidential law enforcement investigatory records;   | 6776   |
| (i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;   | 6777<br>6778                                 |
| (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;   | 6779<br>6780                                 |
| (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;  | 6781<br>6782<br>6783<br>6784                 |
| (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;   | 6785<br>6786<br>6787<br>6788                 |

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| (m) Intellectual property records;   | 6789   |
| (n) Donor profile records;   | 6790   |
| (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;  | 6791<br>6792   |
| (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;  | 6793<br>6794<br>6795<br>6796<br>6797<br>6798                 |
| (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;  | 6799<br>6800<br>6801<br>6802<br>6803                         |
| (r) Information pertaining to the recreational activities of a person under the age of eighteen;   | 6804<br>6805   |
| (s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code; | 6806<br>6807<br>6808<br>6809<br>6810<br>6811<br>6812<br>6813 |
| (t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;   | 6814<br>6815<br>6816<br>6817                                 |
| (u) Test materials, examinations, or evaluation tools used in  | 6818   |

an examination for licensure as a nursing home administrator that 6819  
the board of examiners of nursing home administrators administers 6820  
under section 4751.04 of the Revised Code or contracts under that 6821  
section with a private or government entity to administer; 6822

(v) Records the release of which is prohibited by state or 6823  
federal law; 6824

(w) Proprietary information of or relating to any person that 6825  
is submitted to or compiled by the Ohio venture capital authority 6826  
created under section 150.01 of the Revised Code; 6827

(x) Information reported and evaluations conducted pursuant 6828  
to section 3701.072 of the Revised Code; 6829

(y) Financial statements and data any person submits for any 6830  
purpose to the Ohio housing finance agency or the controlling 6831  
board in connection with applying for, receiving, or accounting 6832  
for financial assistance from the agency, and information that 6833  
identifies any individual who benefits directly or indirectly from 6834  
financial assistance from the agency; 6835

(z) Records listed in section 5101.29 of the Revised Code; 6836

(aa) Discharges recorded with a county recorder under section 6837  
317.24 of the Revised Code, as specified in division (B)(2) of 6838  
that section; 6839

(bb) Usage information including names and addresses of 6840  
specific residential and commercial customers of a municipally 6841  
owned or operated public utility. 6842

(2) "Confidential law enforcement investigatory record" means 6843  
any record that pertains to a law enforcement matter of a 6844  
criminal, quasi-criminal, civil, or administrative nature, but 6845  
only to the extent that the release of the record would create a 6846  
high probability of disclosure of any of the following: 6847

(a) The identity of a suspect who has not been charged with 6848

the offense to which the record pertains, or of an information 6849  
source or witness to whom confidentiality has been reasonably 6850  
promised; 6851

(b) Information provided by an information source or witness 6852  
to whom confidentiality has been reasonably promised, which 6853  
information would reasonably tend to disclose the source's or 6854  
witness's identity; 6855

(c) Specific confidential investigatory techniques or 6856  
procedures or specific investigatory work product; 6857

(d) Information that would endanger the life or physical 6858  
safety of law enforcement personnel, a crime victim, a witness, or 6859  
a confidential information source. 6860

(3) "Medical record" means any document or combination of 6861  
documents, except births, deaths, and the fact of admission to or 6862  
discharge from a hospital, that pertains to the medical history, 6863  
diagnosis, prognosis, or medical condition of a patient and that 6864  
is generated and maintained in the process of medical treatment. 6865

(4) "Trial preparation record" means any record that contains 6866  
information that is specifically compiled in reasonable 6867  
anticipation of, or in defense of, a civil or criminal action or 6868  
proceeding, including the independent thought processes and 6869  
personal trial preparation of an attorney. 6870

(5) "Intellectual property record" means a record, other than 6871  
a financial or administrative record, that is produced or 6872  
collected by or for faculty or staff of a state institution of 6873  
higher learning in the conduct of or as a result of study or 6874  
research on an educational, commercial, scientific, artistic, 6875  
technical, or scholarly issue, regardless of whether the study or 6876  
research was sponsored by the institution alone or in conjunction 6877  
with a governmental body or private concern, and that has not been 6878  
publicly released, published, or patented. 6879

(6) "Donor profile record" means all records about donors or 6880  
potential donors to a public institution of higher education 6881  
except the names and reported addresses of the actual donors and 6882  
the date, amount, and conditions of the actual donation. 6883

(7) "Peace officer, parole officer, probation officer, 6884  
bailiff, prosecuting attorney, assistant prosecuting attorney, 6885  
correctional employee, community-based correctional facility 6886  
employee, youth services employee, firefighter, EMT, or 6887  
investigator of the bureau of criminal identification and 6888  
investigation residential and familial information" means any 6889  
information that discloses any of the following about a peace 6890  
officer, parole officer, probation officer, bailiff, prosecuting 6891  
attorney, assistant prosecuting attorney, correctional employee, 6892  
community-based correctional facility employee, youth services 6893  
employee, firefighter, EMT, or investigator of the bureau of 6894  
criminal identification and investigation: 6895

(a) The address of the actual personal residence of a peace 6896  
officer, parole officer, probation officer, bailiff, assistant 6897  
prosecuting attorney, correctional employee, community-based 6898  
correctional facility employee, youth services employee, 6899  
firefighter, EMT, or an investigator of the bureau of criminal 6900  
identification and investigation, except for the state or 6901  
political subdivision in which the peace officer, parole officer, 6902  
probation officer, bailiff, assistant prosecuting attorney, 6903  
correctional employee, community-based correctional facility 6904  
employee, youth services employee, firefighter, EMT, or 6905  
investigator of the bureau of criminal identification and 6906  
investigation resides; 6907

(b) Information compiled from referral to or participation in 6908  
an employee assistance program; 6909

(c) The social security number, the residential telephone 6910  
number, any bank account, debit card, charge card, or credit card 6911

number, or the emergency telephone number of, or any medical 6912  
information pertaining to, a peace officer, parole officer, 6913  
probation officer, bailiff, prosecuting attorney, assistant 6914  
prosecuting attorney, correctional employee, community-based 6915  
correctional facility employee, youth services employee, 6916  
firefighter, EMT, or investigator of the bureau of criminal 6917  
identification and investigation; 6918

(d) The name of any beneficiary of employment benefits, 6919  
including, but not limited to, life insurance benefits, provided 6920  
to a peace officer, parole officer, probation officer, bailiff, 6921  
prosecuting attorney, assistant prosecuting attorney, correctional 6922  
employee, community-based correctional facility employee, youth 6923  
services employee, firefighter, EMT, or investigator of the bureau 6924  
of criminal identification and investigation by the peace 6925  
officer's, parole officer's, probation officer's, bailiff's, 6926  
prosecuting attorney's, assistant prosecuting attorney's, 6927  
correctional employee's, community-based correctional facility 6928  
employee's, youth services employee's, firefighter's, EMT's, or 6929  
investigator of the bureau of criminal identification and 6930  
investigation's employer; 6931

(e) The identity and amount of any charitable or employment 6932  
benefit deduction made by the peace officer's, parole officer's, 6933  
probation officer's, bailiff's, prosecuting attorney's, assistant 6934  
prosecuting attorney's, correctional employee's, community-based 6935  
correctional facility employee's, youth services employee's, 6936  
firefighter's, EMT's, or investigator of the bureau of criminal 6937  
identification and investigation's employer from the peace 6938  
officer's, parole officer's, probation officer's, bailiff's, 6939  
prosecuting attorney's, assistant prosecuting attorney's, 6940  
correctional employee's, community-based correctional facility 6941  
employee's, youth services employee's, firefighter's, EMT's, or 6942  
investigator of the bureau of criminal identification and 6943

investigation's compensation unless the amount of the deduction is 6944  
required by state or federal law; 6945

(f) The name, the residential address, the name of the 6946  
employer, the address of the employer, the social security number, 6947  
the residential telephone number, any bank account, debit card, 6948  
charge card, or credit card number, or the emergency telephone 6949  
number of the spouse, a former spouse, or any child of a peace 6950  
officer, parole officer, probation officer, bailiff, prosecuting 6951  
attorney, assistant prosecuting attorney, correctional employee, 6952  
community-based correctional facility employee, youth services 6953  
employee, firefighter, EMT, or investigator of the bureau of 6954  
criminal identification and investigation; 6955

(g) A photograph of a peace officer who holds a position or 6956  
has an assignment that may include undercover or plain clothes 6957  
positions or assignments as determined by the peace officer's 6958  
appointing authority. 6959

As used in divisions (A)(7) and (B)(9) of this section, 6960  
"peace officer" has the same meaning as in section 109.71 of the 6961  
Revised Code and also includes the superintendent and troopers of 6962  
the state highway patrol; it does not include the sheriff of a 6963  
county or a supervisory employee who, in the absence of the 6964  
sheriff, is authorized to stand in for, exercise the authority of, 6965  
and perform the duties of the sheriff. 6966

As used in divisions (A)(7) and (B)(5) of this section, 6967  
"correctional employee" means any employee of the department of 6968  
rehabilitation and correction who in the course of performing the 6969  
employee's job duties has or has had contact with inmates and 6970  
persons under supervision. 6971

As used in divisions (A)(7) and (B)(5) of this section, 6972  
"youth services employee" means any employee of the department of 6973  
youth services who in the course of performing the employee's job 6974

duties has or has had contact with children committed to the 6975  
custody of the department of youth services. 6976

As used in divisions (A)(7) and (B)(9) of this section, 6977  
"firefighter" means any regular, paid or volunteer, member of a 6978  
lawfully constituted fire department of a municipal corporation, 6979  
township, fire district, or village. 6980

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 6981  
means EMTs-basic, EMTs-I, and paramedics that provide emergency 6982  
medical services for a public emergency medical service 6983  
organization. "Emergency medical service organization," 6984  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 6985  
section 4765.01 of the Revised Code. 6986

As used in divisions (A)(7) and (B)(9) of this section, 6987  
"investigator of the bureau of criminal identification and 6988  
investigation" has the meaning defined in section 2903.11 of the 6989  
Revised Code. 6990

(8) "Information pertaining to the recreational activities of 6991  
a person under the age of eighteen" means information that is kept 6992  
in the ordinary course of business by a public office, that 6993  
pertains to the recreational activities of a person under the age 6994  
of eighteen years, and that discloses any of the following: 6995

(a) The address or telephone number of a person under the age 6996  
of eighteen or the address or telephone number of that person's 6997  
parent, guardian, custodian, or emergency contact person; 6998

(b) The social security number, birth date, or photographic 6999  
image of a person under the age of eighteen; 7000

(c) Any medical record, history, or information pertaining to 7001  
a person under the age of eighteen; 7002

(d) Any additional information sought or required about a 7003  
person under the age of eighteen for the purpose of allowing that 7004

person to participate in any recreational activity conducted or 7005  
sponsored by a public office or to use or obtain admission 7006  
privileges to any recreational facility owned or operated by a 7007  
public office. 7008

(9) "Community control sanction" has the same meaning as in 7009  
section 2929.01 of the Revised Code. 7010

(10) "Post-release control sanction" has the same meaning as 7011  
in section 2967.01 of the Revised Code. 7012

(11) "Redaction" means obscuring or deleting any information 7013  
that is exempt from the duty to permit public inspection or 7014  
copying from an item that otherwise meets the definition of a 7015  
"record" in section 149.011 of the Revised Code. 7016

(12) "Designee" and "elected official" have the same meanings 7017  
as in section 109.43 of the Revised Code. 7018

(B)(1) Upon request and subject to division (B)(8) of this 7019  
section, all public records responsive to the request shall be 7020  
promptly prepared and made available for inspection to any person 7021  
at all reasonable times during regular business hours. Subject to 7022  
division (B)(8) of this section, upon request, a public office or 7023  
person responsible for public records shall make copies of the 7024  
requested public record available at cost and within a reasonable 7025  
period of time. If a public record contains information that is 7026  
exempt from the duty to permit public inspection or to copy the 7027  
public record, the public office or the person responsible for the 7028  
public record shall make available all of the information within 7029  
the public record that is not exempt. When making that public 7030  
record available for public inspection or copying that public 7031  
record, the public office or the person responsible for the public 7032  
record shall notify the requester of any redaction or make the 7033  
redaction plainly visible. A redaction shall be deemed a denial of 7034  
a request to inspect or copy the redacted information, except if 7035

federal or state law authorizes or requires a public office to 7036  
make the redaction. 7037

(2) To facilitate broader access to public records, a public 7038  
office or the person responsible for public records shall organize 7039  
and maintain public records in a manner that they can be made 7040  
available for inspection or copying in accordance with division 7041  
(B) of this section. A public office also shall have available a 7042  
copy of its current records retention schedule at a location 7043  
readily available to the public. If a requester makes an ambiguous 7044  
or overly broad request or has difficulty in making a request for 7045  
copies or inspection of public records under this section such 7046  
that the public office or the person responsible for the requested 7047  
public record cannot reasonably identify what public records are 7048  
being requested, the public office or the person responsible for 7049  
the requested public record may deny the request but shall provide 7050  
the requester with an opportunity to revise the request by 7051  
informing the requester of the manner in which records are 7052  
maintained by the public office and accessed in the ordinary 7053  
course of the public office's or person's duties. 7054

(3) If a request is ultimately denied, in part or in whole, 7055  
the public office or the person responsible for the requested 7056  
public record shall provide the requester with an explanation, 7057  
including legal authority, setting forth why the request was 7058  
denied. If the initial request was provided in writing, the 7059  
explanation also shall be provided to the requester in writing. 7060  
The explanation shall not preclude the public office or the person 7061  
responsible for the requested public record from relying upon 7062  
additional reasons or legal authority in defending an action 7063  
commenced under division (C) of this section. 7064

(4) Unless specifically required or authorized by state or 7065  
federal law or in accordance with division (B) of this section, no 7066  
public office or person responsible for public records may limit 7067

or condition the availability of public records by requiring 7068  
disclosure of the requester's identity or the intended use of the 7069  
requested public record. Any requirement that the requester 7070  
disclose the requestor's identity or the intended use of the 7071  
requested public record constitutes a denial of the request. 7072

(5) A public office or person responsible for public records 7073  
may ask a requester to make the request in writing, may ask for 7074  
the requester's identity, and may inquire about the intended use 7075  
of the information requested, but may do so only after disclosing 7076  
to the requester that a written request is not mandatory and that 7077  
the requester may decline to reveal the requester's identity or 7078  
the intended use and when a written request or disclosure of the 7079  
identity or intended use would benefit the requester by enhancing 7080  
the ability of the public office or person responsible for public 7081  
records to identify, locate, or deliver the public records sought 7082  
by the requester. 7083

(6) If any person chooses to obtain a copy of a public record 7084  
in accordance with division (B) of this section, the public office 7085  
or person responsible for the public record may require that 7086  
person to pay in advance the cost involved in providing the copy 7087  
of the public record in accordance with the choice made by the 7088  
person seeking the copy under this division. The public office or 7089  
the person responsible for the public record shall permit that 7090  
person to choose to have the public record duplicated upon paper, 7091  
upon the same medium upon which the public office or person 7092  
responsible for the public record keeps it, or upon any other 7093  
medium upon which the public office or person responsible for the 7094  
public record determines that it reasonably can be duplicated as 7095  
an integral part of the normal operations of the public office or 7096  
person responsible for the public record. When the person seeking 7097  
the copy makes a choice under this division, the public office or 7098  
person responsible for the public record shall provide a copy of 7099

it in accordance with the choice made by the person seeking the 7100  
copy. Nothing in this section requires a public office or person 7101  
responsible for the public record to allow the person seeking a 7102  
copy of the public record to make the copies of the public record. 7103

(7) Upon a request made in accordance with division (B) of 7104  
this section and subject to division (B)(6) of this section, a 7105  
public office or person responsible for public records shall 7106  
transmit a copy of a public record to any person by United States 7107  
mail or by any other means of delivery or transmission within a 7108  
reasonable period of time after receiving the request for the 7109  
copy. The public office or person responsible for the public 7110  
record may require the person making the request to pay in advance 7111  
the cost of postage if the copy is transmitted by United States 7112  
mail or the cost of delivery if the copy is transmitted other than 7113  
by United States mail, and to pay in advance the costs incurred 7114  
for other supplies used in the mailing, delivery, or transmission. 7115

Any public office may adopt a policy and procedures that it 7116  
will follow in transmitting, within a reasonable period of time 7117  
after receiving a request, copies of public records by United 7118  
States mail or by any other means of delivery or transmission 7119  
pursuant to this division. A public office that adopts a policy 7120  
and procedures under this division shall comply with them in 7121  
performing its duties under this division. 7122

In any policy and procedures adopted under this division, a 7123  
public office may limit the number of records requested by a 7124  
person that the office will transmit by United States mail to ten 7125  
per month, unless the person certifies to the office in writing 7126  
that the person does not intend to use or forward the requested 7127  
records, or the information contained in them, for commercial 7128  
purposes. For purposes of this division, "commercial" shall be 7129  
narrowly construed and does not include reporting or gathering 7130  
news, reporting or gathering information to assist citizen 7131

oversight or understanding of the operation or activities of 7132  
government, or nonprofit educational research. 7133

(8) A public office or person responsible for public records 7134  
is not required to permit a person who is incarcerated pursuant to 7135  
a criminal conviction or a juvenile adjudication to inspect or to 7136  
obtain a copy of any public record concerning a criminal 7137  
investigation or prosecution or concerning what would be a 7138  
criminal investigation or prosecution if the subject of the 7139  
investigation or prosecution were an adult, unless the request to 7140  
inspect or to obtain a copy of the record is for the purpose of 7141  
acquiring information that is subject to release as a public 7142  
record under this section and the judge who imposed the sentence 7143  
or made the adjudication with respect to the person, or the 7144  
judge's successor in office, finds that the information sought in 7145  
the public record is necessary to support what appears to be a 7146  
justiciable claim of the person. 7147

(9)(a) Upon written request made and signed by a journalist 7148  
on or after December 16, 1999, a public office, or person 7149  
responsible for public records, having custody of the records of 7150  
the agency employing a specified peace officer, parole officer, 7151  
probation officer, bailiff, prosecuting attorney, assistant 7152  
prosecuting attorney, correctional employee, community-based 7153  
correctional facility employee, youth services employee, 7154  
firefighter, EMT, or investigator of the bureau of criminal 7155  
identification and investigation shall disclose to the journalist 7156  
the address of the actual personal residence of the peace officer, 7157  
parole officer, probation officer, bailiff, prosecuting attorney, 7158  
assistant prosecuting attorney, correctional employee, 7159  
community-based correctional facility employee, youth services 7160  
employee, firefighter, EMT, or investigator of the bureau of 7161  
criminal identification and investigation and, if the peace 7162  
officer's, parole officer's, probation officer's, bailiff's, 7163

prosecuting attorney's, assistant prosecuting attorney's, 7164  
correctional employee's, community-based correctional facility 7165  
employee's, youth services employee's, firefighter's, EMT's, or 7166  
investigator of the bureau of criminal identification and 7167  
investigation's spouse, former spouse, or child is employed by a 7168  
public office, the name and address of the employer of the peace 7169  
officer's, parole officer's, probation officer's, bailiff's, 7170  
prosecuting attorney's, assistant prosecuting attorney's, 7171  
correctional employee's, community-based correctional facility 7172  
employee's, youth services employee's, firefighter's, EMT's, or 7173  
investigator of the bureau of criminal identification and 7174  
investigation's spouse, former spouse, or child. The request shall 7175  
include the journalist's name and title and the name and address 7176  
of the journalist's employer and shall state that disclosure of 7177  
the information sought would be in the public interest. 7178

(b) Division (B)(9)(a) of this section also applies to 7179  
journalist requests for customer information maintained by a 7180  
municipally owned or operated public utility, other than social 7181  
security numbers and any private financial information such as 7182  
credit reports, payment methods, credit card numbers, and bank 7183  
account information. 7184

(c) As used in division (B)(9) of this section, "journalist" 7185  
means a person engaged in, connected with, or employed by any news 7186  
medium, including a newspaper, magazine, press association, news 7187  
agency, or wire service, a radio or television station, or a 7188  
similar medium, for the purpose of gathering, processing, 7189  
transmitting, compiling, editing, or disseminating information for 7190  
the general public. 7191

(C)(1) If a person allegedly is aggrieved by the failure of a 7192  
public office or the person responsible for public records to 7193  
promptly prepare a public record and to make it available to the 7194  
person for inspection in accordance with division (B) of this 7195

section or by any other failure of a public office or the person 7196  
responsible for public records to comply with an obligation in 7197  
accordance with division (B) of this section, the person allegedly 7198  
aggrieved may commence a mandamus action to obtain a judgment that 7199  
orders the public office or the person responsible for the public 7200  
record to comply with division (B) of this section, that awards 7201  
court costs and reasonable attorney's fees to the person that 7202  
instituted the mandamus action, and, if applicable, that includes 7203  
an order fixing statutory damages under division (C)(1) of this 7204  
section. The mandamus action may be commenced in the court of 7205  
common pleas of the county in which division (B) of this section 7206  
allegedly was not complied with, in the supreme court pursuant to 7207  
its original jurisdiction under Section 2 of Article IV, Ohio 7208  
Constitution, or in the court of appeals for the appellate 7209  
district in which division (B) of this section allegedly was not 7210  
complied with pursuant to its original jurisdiction under Section 7211  
3 of Article IV, Ohio Constitution. 7212

If a requestor transmits a written request by hand delivery 7213  
or certified mail to inspect or receive copies of any public 7214  
record in a manner that fairly describes the public record or 7215  
class of public records to the public office or person responsible 7216  
for the requested public records, except as otherwise provided in 7217  
this section, the requestor shall be entitled to recover the 7218  
amount of statutory damages set forth in this division if a court 7219  
determines that the public office or the person responsible for 7220  
public records failed to comply with an obligation in accordance 7221  
with division (B) of this section. 7222

The amount of statutory damages shall be fixed at one hundred 7223  
dollars for each business day during which the public office or 7224  
person responsible for the requested public records failed to 7225  
comply with an obligation in accordance with division (B) of this 7226  
section, beginning with the day on which the requester files a 7227

mandamus action to recover statutory damages, up to a maximum of 7228  
one thousand dollars. The award of statutory damages shall not be 7229  
construed as a penalty, but as compensation for injury arising 7230  
from lost use of the requested information. The existence of this 7231  
injury shall be conclusively presumed. The award of statutory 7232  
damages shall be in addition to all other remedies authorized by 7233  
this section. 7234

The court may reduce an award of statutory damages or not 7235  
award statutory damages if the court determines both of the 7236  
following: 7237

(a) That, based on the ordinary application of statutory law 7238  
and case law as it existed at the time of the conduct or 7239  
threatened conduct of the public office or person responsible for 7240  
the requested public records that allegedly constitutes a failure 7241  
to comply with an obligation in accordance with division (B) of 7242  
this section and that was the basis of the mandamus action, a 7243  
well-informed public office or person responsible for the 7244  
requested public records reasonably would believe that the conduct 7245  
or threatened conduct of the public office or person responsible 7246  
for the requested public records did not constitute a failure to 7247  
comply with an obligation in accordance with division (B) of this 7248  
section; 7249

(b) That a well-informed public office or person responsible 7250  
for the requested public records reasonably would believe that the 7251  
conduct or threatened conduct of the public office or person 7252  
responsible for the requested public records would serve the 7253  
public policy that underlies the authority that is asserted as 7254  
permitting that conduct or threatened conduct. 7255

(2)(a) If the court issues a writ of mandamus that orders the 7256  
public office or the person responsible for the public record to 7257  
comply with division (B) of this section and determines that the 7258  
circumstances described in division (C)(1) of this section exist, 7259

the court shall determine and award to the relator all court costs. 7260  
7261

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(c) of this section when either of the following applies: 7262  
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7264  
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(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section. 7269  
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(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time. 7273  
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(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following: 7278  
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(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of 7286  
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this section and that was the basis of the mandamus action, a 7291  
well-informed public office or person responsible for the 7292  
requested public records reasonably would believe that the conduct 7293  
or threatened conduct of the public office or person responsible 7294  
for the requested public records did not constitute a failure to 7295  
comply with an obligation in accordance with division (B) of this 7296  
section; 7297

(ii) That a well-informed public office or person responsible 7298  
for the requested public records reasonably would believe that the 7299  
conduct or threatened conduct of the public office or person 7300  
responsible for the requested public records as described in 7301  
division (C)(2)(c)(i) of this section would serve the public 7302  
policy that underlies the authority that is asserted as permitting 7303  
that conduct or threatened conduct. 7304

(D) Chapter 1347. of the Revised Code does not limit the 7305  
provisions of this section. 7306

(E)(1) To ensure that all employees of public offices are 7307  
appropriately educated about a public office's obligations under 7308  
division (B) of this section, all elected officials or their 7309  
appropriate designees shall attend training approved by the 7310  
attorney general as provided in section 109.43 of the Revised 7311  
Code. In addition, all public offices shall adopt a public records 7312  
policy in compliance with this section for responding to public 7313  
records requests. In adopting a public records policy under this 7314  
division, a public office may obtain guidance from the model 7315  
public records policy developed and provided to the public office 7316  
by the attorney general under section 109.43 of the Revised Code. 7317  
Except as otherwise provided in this section, the policy may not 7318  
limit the number of public records that the public office will 7319  
make available to a single person, may not limit the number of 7320  
public records that it will make available during a fixed period 7321  
of time, and may not establish a fixed period of time before it 7322

will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

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

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs

paid to private contractors for copying services. 7355

(b) "Bulk commercial special extraction request" means a 7356  
request for copies of a record for information in a format other 7357  
than the format already available, or information that cannot be 7358  
extracted without examination of all items in a records series, 7359  
class of records, or data base by a person who intends to use or 7360  
forward the copies for surveys, marketing, solicitation, or resale 7361  
for commercial purposes. "Bulk commercial special extraction 7362  
request" does not include a request by a person who gives 7363  
assurance to the bureau that the person making the request does 7364  
not intend to use or forward the requested copies for surveys, 7365  
marketing, solicitation, or resale for commercial purposes. 7366

(c) "Commercial" means profit-seeking production, buying, or 7367  
selling of any good, service, or other product. 7368

(d) "Special extraction costs" means the cost of the time 7369  
spent by the lowest paid employee competent to perform the task, 7370  
the actual amount paid to outside private contractors employed by 7371  
the bureau, or the actual cost incurred to create computer 7372  
programs to make the special extraction. "Special extraction 7373  
costs" include any charges paid to a public agency for computer or 7374  
records services. 7375

(3) For purposes of divisions (F)(1) and (2) of this section, 7376  
"surveys, marketing, solicitation, or resale for commercial 7377  
purposes" shall be narrowly construed and does not include 7378  
reporting or gathering news, reporting or gathering information to 7379  
assist citizen oversight or understanding of the operation or 7380  
activities of government, or nonprofit educational research. 7381

**Sec. 151.01.** (A) As used in sections 151.01 to 151.11 and 7382  
151.40 of the Revised Code and in the applicable bond proceedings 7383  
unless otherwise provided: 7384

(1) "Bond proceedings" means the resolutions, orders, 7385  
agreements, and credit enhancement facilities, and amendments and 7386  
supplements to them, or any one or more or combination of them, 7387  
authorizing, awarding, or providing for the terms and conditions 7388  
applicable to or providing for the security or liquidity of, the 7389  
particular obligations, and the provisions contained in those 7390  
obligations. 7391

(2) "Bond service fund" means the respective bond service 7392  
fund created by section 151.03, 151.04, 151.05, 151.06, 151.07, 7393  
151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code, and 7394  
any accounts in that fund, including all moneys and investments, 7395  
and earnings from investments, credited and to be credited to that 7396  
fund and accounts as and to the extent provided in the applicable 7397  
bond proceedings. 7398

(3) "Capital facilities" means capital facilities or projects 7399  
as referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 7400  
151.08, 151.09, 151.10, 151.11, or 151.40 of the Revised Code. 7401

(4) "Costs of capital facilities" means the costs of 7402  
acquiring, constructing, reconstructing, rehabilitating, 7403  
remodeling, renovating, enlarging, improving, equipping, or 7404  
furnishing capital facilities, and of the financing of those 7405  
costs. "Costs of capital facilities" includes, without limitation, 7406  
and in addition to costs referred to in section 151.03, 151.04, 7407  
151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 151.11, or 151.40 7408  
of the Revised Code, the cost of clearance and preparation of the 7409  
site and of any land to be used in connection with capital 7410  
facilities, the cost of any indemnity and surety bonds and 7411  
premiums on insurance, all related direct administrative expenses 7412  
and allocable portions of direct costs of the issuing authority, 7413  
costs of engineering and architectural services, designs, plans, 7414  
specifications, surveys, and estimates of cost, financing costs, 7415  
interest on obligations, including but not limited to, interest 7416

from ~~their~~ the date of their issuance to the time when interest is 7417  
to be paid from sources other than proceeds of obligations, 7418  
amounts necessary to establish any reserves as required by the 7419  
bond proceedings, the reimbursement of all moneys advanced or 7420  
applied by or borrowed from any person or governmental agency or 7421  
entity for the payment of any item of costs of capital facilities, 7422  
and all other expenses necessary or incident to planning or 7423  
determining feasibility or practicability with respect to capital 7424  
facilities, and such other expenses as may be necessary or 7425  
incident to the acquisition, construction, reconstruction, 7426  
rehabilitation, remodeling, renovation, enlargement, improvement, 7427  
equipment, and furnishing of capital facilities, the financing of 7428  
those costs, and the placing of the capital facilities in use and 7429  
operation, including any one, part of, or combination of those 7430  
classes of costs and expenses. For purposes of sections 122.085 to 7431  
122.0820 of the Revised Code, "costs of capital facilities" 7432  
includes "allowable costs" as defined in section 122.085 of the 7433  
Revised Code. 7434

(5) "Credit enhancement facilities," "financing costs," and 7435  
"interest" or "interest equivalent" have the same meanings as in 7436  
section 133.01 of the Revised Code. 7437

(6) "Debt service" means principal, including any mandatory 7438  
sinking fund or redemption requirements for retirement of 7439  
obligations, interest and other accreted amounts, interest 7440  
equivalent, and any redemption premium, payable on obligations. If 7441  
not prohibited by the applicable bond proceedings, debt service 7442  
may include costs relating to credit enhancement facilities that 7443  
are related to and represent, or are intended to provide a source 7444  
of payment of or limitation on, other debt service. 7445

(7) "Issuing authority" means the Ohio public facilities 7446  
commission created in section 151.02 of the Revised Code for 7447  
obligations issued under section 151.03, 151.04, 151.05, 151.07, 7448

151.08, 151.09, 151.10, or 151.11 of the Revised Code, or the 7449  
treasurer of state, or the officer who by law performs the 7450  
functions of that office, for obligations issued under section 7451  
151.06 or 151.40 of the Revised Code. 7452

(8) "Net proceeds" means amounts received from the sale of 7453  
obligations, excluding amounts used to refund or retire 7454  
outstanding obligations, amounts required to be deposited into 7455  
special funds pursuant to the applicable bond proceedings, and 7456  
amounts to be used to pay financing costs. 7457

(9) "Obligations" means bonds, notes, or other evidences of 7458  
obligation of the state, including any appertaining interest 7459  
coupons, issued under Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15 of 7460  
Article VIII, Ohio Constitution, and pursuant to sections 151.01 7461  
to 151.11 or 151.40 of the Revised Code or other general assembly 7462  
authorization. 7463

(10) "Principal amount" means the aggregate of the amount as 7464  
stated or provided for in the applicable bond proceedings as the 7465  
amount on which interest or interest equivalent on particular 7466  
obligations is initially calculated. Principal amount does not 7467  
include any premium paid to the state by the initial purchaser of 7468  
the obligations. "Principal amount" of a capital appreciation 7469  
bond, as defined in division (C) of section 3334.01 of the Revised 7470  
Code, means its face amount, and "principal amount" of a zero 7471  
coupon bond, as defined in division (J) of section 3334.01 of the 7472  
Revised Code, means the discounted offering price at which the 7473  
bond is initially sold to the public, disregarding any purchase 7474  
price discount to the original purchaser, if provided for pursuant 7475  
to the bond proceedings. 7476

(11) "Special funds" or "funds," unless the context indicates 7477  
otherwise, means the bond service fund, and any other funds, 7478  
including any reserve funds, created under the bond proceedings 7479  
and stated to be special funds in those proceedings, including 7480

moneys and investments, and earnings from investments, credited 7481  
and to be credited to the particular fund. Special funds do not 7482  
include the school building program assistance fund created by 7483  
section 3318.25 of the Revised Code, the higher education 7484  
improvement fund created by division (F) of section 154.21 of the 7485  
Revised Code, the higher education improvement taxable fund 7486  
created by division (G) of section 154.21 of the Revised Code, the 7487  
highway capital improvement bond fund created by section 5528.53 7488  
of the Revised Code, the state parks and natural resources fund 7489  
created by section 1557.02 of the Revised Code, the coal research 7490  
and development fund created by section 1555.15 of the Revised 7491  
Code, the clean Ohio conservation fund created by section 164.27 7492  
of the Revised Code, the clean Ohio revitalization fund created by 7493  
section 122.658 of the Revised Code, the job ready site 7494  
development fund created by section 122.0820 of the Revised Code, 7495  
the third frontier research and development fund created by 7496  
section 184.19 of the Revised Code, the third frontier research 7497  
and development taxable bond fund created by section 184.191 of 7498  
the Revised Code, or other funds created by the bond proceedings 7499  
that are not stated by those proceedings to be special funds. 7500

(B) Subject to Section 2l, 2m, 2n, 2o, 2p, 2q, or 15, and 7501  
Section 17, of Article VIII, Ohio Constitution, the state, by the 7502  
issuing authority, is authorized to issue and sell, as provided in 7503  
sections 151.03 to 151.11 or 151.40 of the Revised Code, and in 7504  
respective aggregate principal amounts as from time to time 7505  
provided or authorized by the general assembly, general 7506  
obligations of this state for the purpose of paying costs of 7507  
capital facilities or projects identified by or pursuant to 7508  
general assembly action. 7509

(C) Each issue of obligations shall be authorized by 7510  
resolution or order of the issuing authority. The bond proceedings 7511  
shall provide for or authorize the manner for determining the 7512

principal amount or maximum principal amount of obligations of an 7513  
issue, the principal maturity or maturities, the interest rate or 7514  
rates, the date of and the dates of payment of interest on the 7515  
obligations, their denominations, and the place or places of 7516  
payment of debt service which may be within or outside the state. 7517  
Unless otherwise provided by law, the latest principal maturity 7518  
may not be later than the earlier of the thirty-first day of 7519  
December of the twenty-fifth calendar year after the year of 7520  
issuance of the particular obligations or of the twenty-fifth 7521  
calendar year after the year in which the original obligation to 7522  
pay was issued or entered into. Sections 9.96, 9.98, 9.981, 9.982, 7523  
and 9.983 of the Revised Code apply to obligations. The purpose of 7524  
the obligations may be stated in the bond proceedings in general 7525  
terms, such as, as applicable, "financing or assisting in the 7526  
financing of projects as provided in Section 2l of Article VIII, 7527  
Ohio Constitution," "financing or assisting in the financing of 7528  
highway capital improvement projects as provided in Section 2m of 7529  
Article VIII, Ohio Constitution," "paying costs of capital 7530  
facilities for a system of common schools throughout the state as 7531  
authorized by Section 2n of Article VIII, Ohio Constitution," 7532  
"paying costs of capital facilities for state-supported and 7533  
state-assisted institutions of higher education as authorized by 7534  
Section 2n of Article VIII, Ohio Constitution," "paying costs of 7535  
coal research and development as authorized by Section 15 of 7536  
Article VIII, Ohio Constitution," "financing or assisting in the 7537  
financing of local subdivision capital improvement projects as 7538  
authorized by Section 2m of Article VIII, Ohio Constitution," 7539  
"paying costs of conservation projects as authorized by Sections 7540  
2o and 2q of Article VIII, Ohio Constitution," "paying costs of 7541  
revitalization projects as authorized by Sections 2o and 2q of 7542  
Article VIII, Ohio Constitution," "paying costs of preparing sites 7543  
for industry, commerce, distribution, or research and development 7544  
as authorized by Section 2p of Article VIII, Ohio Constitution," 7545

or "paying costs of research and development as authorized by 7546  
Section 2p of Article VIII, Ohio Constitution." 7547

(D) The issuing authority may appoint or provide for the 7548  
appointment of paying agents, bond registrars, securities 7549  
depositories, clearing corporations, and transfer agents, and may 7550  
without need for any other approval retain or contract for the 7551  
services of underwriters, investment bankers, financial advisers, 7552  
accounting experts, marketing, remarketing, indexing, and 7553  
administrative agents, other consultants, and independent 7554  
contractors, including printing services, as are necessary in the 7555  
judgment of the issuing authority to carry out the issuing 7556  
authority's functions under this chapter. When the issuing 7557  
authority is the Ohio public facilities commission, the issuing 7558  
authority also may without need for any other approval retain or 7559  
contract for the services of attorneys and other professionals for 7560  
that purpose. Financing costs are payable, as may be provided in 7561  
the bond proceedings, from the proceeds of the obligations, from 7562  
special funds, or from other moneys available for the purpose. 7563

(E) The bond proceedings may contain additional provisions 7564  
customary or appropriate to the financing or to the obligations or 7565  
to particular obligations including, but not limited to, 7566  
provisions for: 7567

(1) The redemption of obligations prior to maturity at the 7568  
option of the state or of the holder or upon the occurrence of 7569  
certain conditions, and at particular price or prices and under 7570  
particular terms and conditions; 7571

(2) The form of and other terms of the obligations; 7572

(3) The establishment, deposit, investment, and application 7573  
of special funds, and the safeguarding of moneys on hand or on 7574  
deposit, in lieu of the applicability of provisions of Chapter 7575  
131. or 135. of the Revised Code, but subject to any special 7576

provisions of sections 151.01 to 151.11 or 151.40 of the Revised 7577  
Code with respect to the application of particular funds or 7578  
moneys. Any financial institution that acts as a depository of any 7579  
moneys in special funds or other funds under the bond proceedings 7580  
may furnish indemnifying bonds or pledge securities as required by 7581  
the issuing authority. 7582

(4) Any or every provision of the bond proceedings being 7583  
binding upon the issuing authority and upon such governmental 7584  
agency or entity, officer, board, commission, authority, agency, 7585  
department, institution, district, or other person or body as may 7586  
from time to time be authorized to take actions as may be 7587  
necessary to perform all or any part of the duty required by the 7588  
provision; 7589

(5) The maintenance of each pledge or instrument comprising 7590  
part of the bond proceedings until the state has fully paid or 7591  
provided for the payment of the debt service on the obligations or 7592  
met other stated conditions; 7593

(6) In the event of default in any payments required to be 7594  
made by the bond proceedings, or by any other agreement of the 7595  
issuing authority made as part of a contract under which the 7596  
obligations were issued or secured, including a credit enhancement 7597  
facility, the enforcement of those payments by mandamus, a suit in 7598  
equity, an action at law, or any combination of those remedial 7599  
actions; 7600

(7) The rights and remedies of the holders or owners of 7601  
obligations or of book-entry interests in them, and of third 7602  
parties under any credit enhancement facility, and provisions for 7603  
protecting and enforcing those rights and remedies, including 7604  
limitations on rights of individual holders or owners; 7605

(8) The replacement of mutilated, destroyed, lost, or stolen 7606  
obligations; 7607

(9) The funding, refunding, or advance refunding, or other 7608  
provision for payment, of obligations that will then no longer be 7609  
outstanding for purposes of this section or of the applicable bond 7610  
proceedings; 7611

(10) Amendment of the bond proceedings; 7612

(11) Any other or additional agreements with the owners of 7613  
obligations, and such other provisions as the issuing authority 7614  
determines, including limitations, conditions, or qualifications, 7615  
relating to any of the foregoing. 7616

(F) The great seal of the state or a facsimile of it may be 7617  
affixed to or printed on the obligations. The obligations 7618  
requiring execution by or for the issuing authority shall be 7619  
signed as provided in the bond proceedings. Any obligations may be 7620  
signed by the individual who on the date of execution is the 7621  
authorized signer although on the date of these obligations that 7622  
individual is not an authorized signer. In case the individual 7623  
whose signature or facsimile signature appears on any obligation 7624  
ceases to be an authorized signer before delivery of the 7625  
obligation, that signature or facsimile is nevertheless valid and 7626  
sufficient for all purposes as if that individual had remained the 7627  
authorized signer until delivery. 7628

(G) Obligations are investment securities under Chapter 1308. 7629  
of the Revised Code. Obligations may be issued in bearer or in 7630  
registered form, registrable as to principal alone or as to both 7631  
principal and interest, or both, or in certificated or 7632  
uncertificated form, as the issuing authority determines. 7633  
Provision may be made for the exchange, conversion, or transfer of 7634  
obligations and for reasonable charges for registration, exchange, 7635  
conversion, and transfer. Pending preparation of final 7636  
obligations, the issuing authority may provide for the issuance of 7637  
interim instruments to be exchanged for the final obligations. 7638

(H) Obligations may be sold at public sale or at private sale, in such manner, and at such price at, above or below par, all as determined by and provided by the issuing authority in the bond proceedings.

(I) Except to the extent that rights are restricted by the bond proceedings, any owner of obligations or provider of a credit enhancement facility may by any suitable form of legal proceedings protect and enforce any rights relating to obligations or that facility under the laws of this state or granted by the bond proceedings. Those rights include the right to compel the performance of all applicable duties of the issuing authority and the state. Each duty of the issuing authority and that authority's officers, staff, and employees, and of each state entity or agency, or using district or using institution, and its officers, members, staff, or employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the entity or individual having authority to perform that duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The individuals who are from time to time the issuing authority, members or officers of the issuing authority, or those members' designees acting pursuant to section 151.02 of the Revised Code, or the issuing authority's officers, staff, or employees, are not liable in their personal capacities on any obligations or otherwise under the bond proceedings.

(J)(1) Subject to Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15, and Section 17, of Article VIII, Ohio Constitution and sections 151.01 to 151.11 or 151.40 of the Revised Code, the issuing authority may, in addition to the authority referred to in division (B) of this section, authorize and provide for the issuance of:

(a) Obligations in the form of bond anticipation notes, and

may provide for the renewal of those notes from time to time by 7671  
the issuance of new notes. The holders of notes or appertaining 7672  
interest coupons have the right to have debt service on those 7673  
notes paid solely from the moneys and special funds that are or 7674  
may be pledged to that payment, including the proceeds of bonds or 7675  
renewal notes or both, as the issuing authority provides in the 7676  
bond proceedings authorizing the notes. Notes may be additionally 7677  
secured by covenants of the issuing authority to the effect that 7678  
the issuing authority and the state will do all things necessary 7679  
for the issuance of bonds or renewal notes in such principal 7680  
amount and upon such terms as may be necessary to provide moneys 7681  
to pay when due the debt service on the notes, and apply their 7682  
proceeds to the extent necessary, to make full and timely payment 7683  
of debt service on the notes as provided in the applicable bond 7684  
proceedings. In the bond proceedings authorizing the issuance of 7685  
bond anticipation notes the issuing authority shall set forth for 7686  
the bonds anticipated an estimated schedule of annual principal 7687  
payments the latest of which shall be no later than provided in 7688  
division (C) of this section. While the notes are outstanding 7689  
there shall be deposited, as shall be provided in the bond 7690  
proceedings for those notes, from the sources authorized for 7691  
payment of debt service on the bonds, amounts sufficient to pay 7692  
the principal of the bonds anticipated as set forth in that 7693  
estimated schedule during the time the notes are outstanding, 7694  
which amounts shall be used solely to pay the principal of those 7695  
notes or of the bonds anticipated. 7696

(b) Obligations for the refunding, including funding and 7697  
retirement, and advance refunding with or without payment or 7698  
redemption prior to maturity, of any obligations previously 7699  
issued. Refunding obligations may be issued in amounts sufficient 7700  
to pay or to provide for repayment of the principal amount, 7701  
including principal amounts maturing prior to the redemption of 7702  
the remaining prior obligations, any redemption premium, and 7703

interest accrued or to accrue to the maturity or redemption date 7704  
or dates, payable on the prior obligations, and related financing 7705  
costs and any expenses incurred or to be incurred in connection 7706  
with that issuance and refunding. Subject to the applicable bond 7707  
proceedings, the portion of the proceeds of the sale of refunding 7708  
obligations issued under division (J)(1)(b) of this section to be 7709  
applied to debt service on the prior obligations shall be credited 7710  
to an appropriate separate account in the bond service fund and 7711  
held in trust for the purpose by the issuing authority or by a 7712  
corporate trustee. Obligations authorized under this division 7713  
shall be considered to be issued for those purposes for which the 7714  
prior obligations were issued. 7715

(2) Except as otherwise provided in sections 151.01 to 151.11 7716  
or 151.40 of the Revised Code, bonds or notes authorized pursuant 7717  
to division (J) of this section are subject to the provisions of 7718  
those sections pertaining to obligations generally. 7719

(3) The principal amount of refunding or renewal obligations 7720  
issued pursuant to division (J) of this section shall be in 7721  
addition to the amount authorized by the general assembly as 7722  
referred to in division (B) of the following sections: section 7723  
151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, 151.10, 7724  
151.11, or 151.40 of the Revised Code. 7725

(K) Obligations are lawful investments for banks, savings and 7726  
loan associations, credit union share guaranty corporations, trust 7727  
companies, trustees, fiduciaries, insurance companies, including 7728  
domestic for life and domestic not for life, trustees or other 7729  
officers having charge of sinking and bond retirement or other 7730  
special funds of the state and political subdivisions and taxing 7731  
districts of this state, the sinking fund, the administrator of 7732  
workers' compensation subject to the approval of the workers' 7733  
compensation board, the state teachers retirement system, the 7734  
public employees retirement system, the school employees 7735

retirement system, and the Ohio police and fire pension fund, 7736  
notwithstanding any other provisions of the Revised Code or rules 7737  
adopted pursuant to those provisions by any state agency with 7738  
respect to investments by them, and are also acceptable as 7739  
security for the repayment of the deposit of public moneys. The 7740  
exemptions from taxation in Ohio as provided for in particular 7741  
sections of the Ohio Constitution and section 5709.76 of the 7742  
Revised Code apply to the obligations. 7743

(L)(1) Unless otherwise provided or provided for in any 7744  
applicable bond proceedings, moneys to the credit of or in a 7745  
special fund shall be disbursed on the order of the issuing 7746  
authority. No such order is required for the payment, from the 7747  
bond service fund or other special fund, when due of debt service 7748  
or required payments under credit enhancement facilities. 7749

(2) Payments received by the state under interest rate hedges 7750  
entered into as credit enhancement facilities under this chapter 7751  
shall be deposited to the credit of the bond service fund for the 7752  
obligations to which those credit enhancement facilities relate. 7753

(M) The full faith and credit, revenue, and taxing power of 7754  
the state are and shall be pledged to the timely payment of debt 7755  
service on outstanding obligations as it comes due, all in 7756  
accordance with Section 2k, 2l, 2m, 2n, 2o, 2p, 2q, or 15 of 7757  
Article VIII, Ohio Constitution, and section 151.03, 151.04, 7758  
151.05, 151.06, 151.07, 151.08, 151.09, 151.10, or 151.11 of the 7759  
Revised Code. Moneys referred to in Section 5a of Article XII, 7760  
Ohio Constitution, may not be pledged or used for the payment of 7761  
debt service except on obligations referred to in section 151.06 7762  
of the Revised Code. Net state lottery proceeds, as provided for 7763  
and referred to in section 3770.06 of the Revised Code, may not be 7764  
pledged or used for the payment of debt service except on 7765  
obligations referred to in section 151.03 of the Revised Code. The 7766  
state covenants, and that covenant shall be controlling 7767

notwithstanding any other provision of law, that the state and the 7768  
applicable officers and agencies of the state, including the 7769  
general assembly, shall, so long as any obligations are 7770  
outstanding in accordance with their terms, maintain statutory 7771  
authority for and cause to be levied, collected and applied 7772  
sufficient pledged excises, taxes, and revenues of the state so 7773  
that the revenues shall be sufficient in amounts to pay debt 7774  
service when due, to establish and maintain any reserves and other 7775  
requirements, and to pay financing costs, including costs of or 7776  
relating to credit enhancement facilities, all as provided for in 7777  
the bond proceedings. Those excises, taxes, and revenues are and 7778  
shall be deemed to be levied and collected, in addition to the 7779  
purposes otherwise provided for by law, to provide for the payment 7780  
of debt service and financing costs in accordance with sections 7781  
151.01 to 151.11 of the Revised Code and the bond proceedings. 7782

(N) The general assembly may from time to time repeal or 7783  
reduce any excise, tax, or other source of revenue pledged to the 7784  
payment of the debt service pursuant to Section 2k, 2l, 2m, 2n, 7785  
2o, 2p, 2q, or 15 of Article VIII, Ohio Constitution, and sections 7786  
151.01 to 151.11 or 151.40 of the Revised Code, and may levy, 7787  
collect and apply any new or increased excise, tax, or revenue to 7788  
meet the pledge, to the payment of debt service on outstanding 7789  
obligations, of the state's full faith and credit, revenue and 7790  
taxing power, or of designated revenues and receipts, except fees, 7791  
excises or taxes referred to in Section 5a of Article XII, Ohio 7792  
Constitution, for other than obligations referred to in section 7793  
151.06 of the Revised Code and except net state lottery proceeds 7794  
for other than obligations referred to in section 151.03 of the 7795  
Revised Code. Nothing in division (N) of this section authorizes 7796  
any impairment of the obligation of this state to levy and collect 7797  
sufficient excises, taxes, and revenues to pay debt service on 7798  
obligations outstanding in accordance with their terms. 7799

(O) Each bond service fund is a trust fund and is hereby 7800  
pledged to the payment of debt service on the applicable 7801  
obligations. Payment of that debt service shall be made or 7802  
provided for by the issuing authority in accordance with the bond 7803  
proceedings without necessity for any act of appropriation. The 7804  
bond proceedings may provide for the establishment of separate 7805  
accounts in the bond service fund and for the application of those 7806  
accounts only to debt service on specific obligations, and for 7807  
other accounts in the bond service fund within the general 7808  
purposes of that fund. 7809

(P) Subject to the bond proceedings pertaining to any 7810  
obligations then outstanding in accordance with their terms, the 7811  
issuing authority may in the bond proceedings pledge all, or such 7812  
portion as the issuing authority determines, of the moneys in the 7813  
bond service fund to the payment of debt service on particular 7814  
obligations, and for the establishment and maintenance of any 7815  
reserves for payment of particular debt service. 7816

(Q) The issuing authority shall by the fifteenth day of July 7817  
of each fiscal year, certify or cause to be certified to the 7818  
office of budget and management the total amount of moneys 7819  
required during the current fiscal year to meet in full all debt 7820  
service on the respective obligations and any related financing 7821  
costs payable from the applicable bond service fund and not from 7822  
the proceeds of refunding or renewal obligations. The issuing 7823  
authority shall make or cause to be made supplemental 7824  
certifications to the office of budget and management for each 7825  
debt service payment date and at such other times during each 7826  
fiscal year as may be provided in the bond proceedings or 7827  
requested by that office. Debt service, costs of credit 7828  
enhancement facilities, and other financing costs shall be set 7829  
forth separately in each certification. If and so long as the 7830  
moneys to the credit of the bond service fund, together with any 7831

other moneys available for the purpose, are insufficient to meet 7832  
in full all payments when due of the amount required as stated in 7833  
the certificate or otherwise, the office of budget and management 7834  
shall at the times as provided in the bond proceedings, and 7835  
consistent with any particular provisions in sections 151.03 to 7836  
151.11 and 151.40 of the Revised Code, transfer a sufficient 7837  
amount to the bond service fund from the pledged revenues in the 7838  
case of obligations issued pursuant to section 151.40 of the 7839  
Revised Code, and in the case of other obligations from the 7840  
revenues derived from excises, taxes, and other revenues, 7841  
including net state lottery proceeds in the case of obligations 7842  
referred to in section 151.03 of the Revised Code. 7843

(R) Unless otherwise provided in any applicable bond 7844  
proceedings, moneys to the credit of special funds may be invested 7845  
by or on behalf of the state only in one or more of the following: 7846

(1) Notes, bonds, or other direct obligations of the United 7847  
States or of any agency or instrumentality of the United States, 7848  
or in no-front-end-load money market mutual funds consisting 7849  
exclusively of those obligations, or in repurchase agreements, 7850  
including those issued by any fiduciary, secured by those 7851  
obligations, or in collective investment funds consisting 7852  
exclusively of those obligations; 7853

(2) Obligations of this state or any political subdivision of 7854  
this state; 7855

(3) Certificates of deposit of any national bank located in 7856  
this state and any bank, as defined in section 1101.01 of the 7857  
Revised Code, subject to inspection by the superintendent of 7858  
financial institutions; 7859

(4) The treasurer of state's pooled investment program under 7860  
section 135.45 of the Revised Code. 7861

The income from investments referred to in division (R) of 7862

this section shall, unless otherwise provided in sections 151.01 7863  
to 151.11 or 151.40 of the Revised Code, be credited to special 7864  
funds or otherwise as the issuing authority determines in the bond 7865  
proceedings. Those investments may be sold or exchanged at times 7866  
as the issuing authority determines, provides for, or authorizes. 7867

(S) The treasurer of state shall have responsibility for 7868  
keeping records, making reports, and making payments, relating to 7869  
any arbitrage rebate requirements under the applicable bond 7870  
proceedings. 7871

**Sec. 152.18.** Whenever the Ohio building authority constructs, 7872  
reconstructs, rehabilitates, remodels, renovates, enlarges, 7873  
improves, alters, maintains, equips, furnishes, repairs, paints, 7874  
or decorates capital facilities pursuant to section 152.19, 7875  
152.21, or 152.31 of the Revised Code or buildings, facilities, 7876  
and other properties for use and occupancy of persons pursuant to 7877  
section 152.04 of the Revised Code, the authority shall make the 7878  
necessary plans and specifications, and shall advertise for bids 7879  
for all work to be placed under contract once a week for two 7880  
consecutive weeks in a newspaper of general circulation in the 7881  
county within which the work is to be done, and shall award the 7882  
contract to the lowest responsive and responsible bidder in 7883  
accordance with section 9.312 of the Revised Code. When the 7884  
authority determines, subject to approval by the controlling 7885  
board, that a real and present emergency exists or if the cost of 7886  
such a contract does not exceed fifty thousand dollars, such a 7887  
contract may be awarded without advertising and receipt of bids. A 7888  
bid guaranty pursuant to sections 153.54 to 153.571 of the Revised 7889  
Code shall be required for any contract under this section. 7890

In all other cases of capital facilities financed by the 7891  
authority, the construction, reconstruction, ~~rehabilitation,~~ 7892  
~~remodeling, renovation,~~ enlargement, improvement, alteration, 7893

~~maintenance, equipping, furnishing, repair, painting, or~~ 7894  
~~decoration of capital facilities by or for the state or any~~ 7895  
~~governmental entity shall be the responsibility of the department~~ 7896  
~~of administrative services~~ Ohio facilities construction commission 7897  
~~or, with the consent of the department of administrative services~~ 7898  
Ohio facilities construction commission, shall be the 7899  
responsibility of the state agency using the capital facility, or 7900  
the governmental entity with which a state agency is participating 7901  
pursuant to section 152.33 of the Revised Code, and shall be 7902  
undertaken by the ~~department~~ commission in compliance with Chapter 7903  
153. of the Revised Code, or by such state agency or governmental 7904  
entity in accordance with otherwise applicable law. The 7905  
rehabilitation, remodeling, renovation, maintenance, equipping, or 7906  
furnishing of capital facilities by or for the state or any 7907  
governmental entity shall be the responsibility of the department 7908  
of administrative services or, with the consent of the department, 7909  
the state agency or other governmental entity that is using the 7910  
capital facility. 7911

**Sec. 152.24.** (A) Except as otherwise provided with respect to 7912  
leasing of capital facilities in sections 152.241, 152.242, 7913  
152.31, and 152.33 of the Revised Code, the department of 7914  
administrative services or, with the consent of the department of 7915  
administrative services, the state agency using an office facility 7916  
and related storage and parking facilities, or participating in 7917  
such facilities pursuant to section 152.33 of the Revised Code, 7918  
shall lease any office facility and related storage and parking 7919  
facility acquired, purchased, constructed, reconstructed, 7920  
rehabilitated, remodeled, renovated, enlarged, improved, altered, 7921  
operated, maintained, equipped, furnished, repaired, painted, 7922  
decorated, or financed by the Ohio building authority for housing 7923  
any state agencies. An agreement between the authority and the 7924  
department of administrative services or such using or 7925

participating agency may provide for the transfer of the property 7926  
to the state after bonds and notes issued by the authority for the 7927  
purpose of the acquisition, purchase, construction, 7928  
reconstruction, rehabilitation, remodeling, renovation, 7929  
enlargement, improvement, alteration, equipping, furnishing, 7930  
repair, painting, decorating, or financing of such building or 7931  
facility have been repaid. A lease between the authority and the 7932  
department of administrative services or a using or participating 7933  
agency shall be for a period not exceeding the then current 7934  
two-year period for which appropriations have been made by the 7935  
general assembly to the department of administrative services and 7936  
the state agencies which will occupy or participate in the office 7937  
facility and related storage and parking facility being leased, 7938  
and such lease may contain such other terms as the department of 7939  
administrative services, or a using or participating agency, and 7940  
the authority agree notwithstanding any other provision of law, 7941  
including provision that rental payments in amounts at least 7942  
sufficient to pay bond service charges payable during the current 7943  
two-year lease term shall be an absolute and unconditional 7944  
obligation of the department of administrative services, or the 7945  
using or participating agency, independent of all other duties 7946  
under the lease without setoff or deduction or any other similar 7947  
rights or defenses. Such an agreement may provide for renewal of a 7948  
lease at the end of each term for another term, not exceeding two 7949  
years, provided that no renewal shall be effective until the 7950  
effective date of an appropriation enacted by the general assembly 7951  
from which the department of administrative services, or the using 7952  
or participating agency, may lawfully pay rentals under such 7953  
lease. For purposes of this section, the term "lease" may include, 7954  
without limitation, any agreement between the department of 7955  
administrative services, or the using or participating agency, and 7956  
the authority with respect to any costs of capital facilities to 7957  
be incurred prior to land acquisition. 7958

(B) If the director of administrative services or the 7959  
director of a state agency using or participating in an office 7960  
facility and related storage and parking facility certifies that 7961  
space in such facility acquired, purchased, constructed, 7962  
reconstructed, rehabilitated, remodeled, renovated, enlarged, 7963  
improved, altered, operated, maintained, equipped, furnished, 7964  
repaired, painted, decorated, or financed by the authority has 7965  
become unnecessary for state use, the authority may lease any 7966  
excess space in such facility and related storage and parking 7967  
facility to any governmental entity. 7968

(C) If space in any office facility leased by the authority 7969  
to the department of administrative services is not immediately 7970  
necessary for state use, the department of administrative services 7971  
may exercise its authority under division (A)~~(9)~~(5) of section 7972  
123.01 of the Revised Code with respect to such space. 7973

(D) Capital facilities acquired, purchased, constructed, 7974  
reconstructed, rehabilitated, remodeled, renovated, enlarged, 7975  
improved, altered, operated, maintained, equipped, furnished, 7976  
repaired, painted, decorated, or financed by the Ohio building 7977  
authority, other than any office facility and related storage and 7978  
parking facility required to be leased pursuant to division (A) of 7979  
this section, shall be leased to the department of administrative 7980  
services, the state agency using the capital facilities, or the 7981  
state agency participating in the capital facilities pursuant to 7982  
section 152.33 of the Revised Code. The department of 7983  
administrative services or the using or participating state agency 7984  
may sublease such capital facilities to other state agencies or 7985  
other governmental entities. Such parties, including other state 7986  
agencies or state-supported or state-assisted institutions of 7987  
higher education, may make other agreements for the use, 7988  
construction, or operation of such capital facilities in any 7989  
manner permitted by the lease or agreement with the authority and 7990

for the charging, collection, and deposit of such revenues and 7991  
receipts of the using or participating state agency constituting 7992  
available receipts, all upon such terms and conditions as the 7993  
parties may agree upon and pursuant to this chapter 7994  
notwithstanding other provisions of law affecting the leasing, 7995  
acquisition, operation, or disposition of capital facilities by 7996  
such parties. Any such lease between the authority and the 7997  
department of administrative services or a using or participating 7998  
state agency shall be for a period not to exceed the then current 7999  
two-year period for which appropriations have been made by the 8000  
general assembly to the department of administrative services or 8001  
such using or participating state agency. The lease between the 8002  
authority and the department of administrative services or the 8003  
using or participating state agency may provide for renewal of the 8004  
lease at the end of each term for another term, not exceeding two 8005  
years, but no renewal shall be effective until the effective date 8006  
of an appropriation enacted by the general assembly from which the 8007  
department of administrative services or the using or 8008  
participating state agency may lawfully pay rentals under such 8009  
lease. Any such leases, subleases, or agreements may set forth the 8010  
responsibilities of the authority, state agencies, 8011  
state-supported, or state-assisted institutions of higher 8012  
education, or other governmental entities as to the financing, 8013  
assessment, planning, acquisition, purchase, construction, 8014  
reconstruction, rehabilitation, remodeling, renovation, 8015  
enlargement, improvement, alteration, subleasing, management, 8016  
operation, maintenance, equipping, furnishing, repair, painting, 8017  
decorating, and insuring of such capital facilities and other 8018  
terms and conditions applicable thereto, and any other provisions 8019  
mutually agreed upon for the purposes of this chapter. Promptly 8020  
upon execution thereof, a signed or conformed copy of each such 8021  
lease or sublease or agreement, and any supplement thereto, 8022  
between the authority and a governmental entity shall be filed by 8023

the authority with the department of administrative services and 8024  
the director of budget and management, and, promptly upon 8025  
execution thereof, a signed or conformed copy of each such 8026  
sublease or agreement between two governmental entities, not 8027  
including the authority, shall be filed with the authority and the 8028  
director of budget and management. For purposes of this section, 8029  
the term "lease" may include, without limitation, any agreement 8030  
between the department of administrative services or the state 8031  
agency using or participating in such capital facilities and the 8032  
authority with respect to any costs of capital facilities to be 8033  
incurred prior to land acquisition. 8034

(E) The transfer of tangible personal property by lease under 8035  
authority of this chapter is not a sale as used in Chapter 5739. 8036  
of the Revised Code. Any agreement of a governmental entity to 8037  
make rental, use, or other payments or payment of purchase price, 8038  
in installments or otherwise, or repayments to or on account of 8039  
the authority and the obligations issued by the authority, shall 8040  
not be deemed to constitute indebtedness, bonded or otherwise, or 8041  
bonds, notes, or other evidence of indebtedness of such 8042  
governmental entity for the purpose of Chapter 133. of the Revised 8043  
Code or any other purpose; such leases and agreements requiring 8044  
payments beyond the current fiscal year are continuing contracts 8045  
for the purposes of sections 5705.41 and 5705.44 of the Revised 8046  
Code. 8047

(F) Any agreement between the department of administrative 8048  
services or the state agency using or participating in such 8049  
capital facilities and the authority that includes provision for 8050  
the use of space by such using or participating state agency or 8051  
the department of administrative services, even if executed prior 8052  
to land acquisition or completion of construction, improvements, 8053  
or financing, shall be a lease for purposes of this chapter and 8054  
for all other purposes. No such lease need be recorded or 8055

recordable for purposes of determining its validity or legal 8056  
sufficiency. 8057

**Sec. 153.01.** (A) Whenever any building or structure for the 8058  
use of the state or any institution supported in whole or in part 8059  
by the state or in or upon the public works of the state that is 8060  
administered by the ~~director of administrative services~~ Ohio 8061  
facilities construction commission or by any other state officer 8062  
or state agency authorized by law to administer a project, 8063  
including an educational institution listed in section 3345.50 of 8064  
the Revised Code, is to be erected or constructed, whenever 8065  
additions, alterations, or structural or other improvements are to 8066  
be made, or whenever heating, cooling, or ventilating plants or 8067  
other equipment is to be installed or material supplied therefor, 8068  
the estimated cost of which amounts to two hundred thousand 8069  
dollars or more, or the amount determined pursuant to section 8070  
153.53 of the Revised Code or more, each officer, board, or other 8071  
authority upon which devolves the duty of constructing, erecting, 8072  
altering, or installing the same, referred to in sections 153.01 8073  
to 153.60 of the Revised Code as the public authority, shall cause 8074  
to be made, by an architect or engineer whose contract of 8075  
employment shall be prepared and approved by the attorney general, 8076  
the following: 8077

(1) Full and accurate plans, suitable for the use of 8078  
mechanics and other builders in the construction, improvement, 8079  
addition, alteration, or installation; 8080

(2) Details to scale and full-sized, so drawn and represented 8081  
as to be easily understood; 8082

(3) Definite and complete specifications of the work to be 8083  
performed, together with directions that will enable a competent 8084  
mechanic or other builder to carry them out and afford bidders all 8085  
needful information; 8086

(4) A full and accurate estimate of each item of expense and 8087  
the aggregate cost of those items of expense; 8088

(5) A life-cycle cost analysis; 8089

(6) Further data as may be required by the ~~department of~~ 8090  
~~administrative services~~ Ohio facilities construction commission. 8091

(B) Division (A) of this section shall not be required with 8092  
respect to a construction management contract entered into with a 8093  
construction manager at risk as described in section 9.334 of the 8094  
Revised Code or a design-build contract entered into with a 8095  
design-build firm as described in section 153.693 of the Revised 8096  
Code. No such construction management contract or design-build 8097  
contract shall be entered into until the contract and bond, if 8098  
any, are submitted to the attorney general and the attorney 8099  
general's approval certified thereon. 8100

**Sec. 153.011.** (A) Except as provided in division (D) of this 8101  
section, whenever any building or structure, including highway 8102  
improvements, in whole or in part supported by state capital 8103  
funds, including moneys from the education facilities trust fund, 8104  
is to be erected or constructed, or whenever additions, 8105  
alterations, or structural or other improvements are to be made, 8106  
if any steel products are to be purchased for or provided in the 8107  
construction, repair, or improvement project, only steel products 8108  
as defined in division (F) of this section shall be purchased for 8109  
or provided in the project. 8110

(B)(1) No person shall purchase or provide steel products in 8111  
violation of division (A) of this section. 8112

(2) Notwithstanding division (B) of section 153.99 of the 8113  
Revised Code, no person who purchases steel products in violation 8114  
of division (A) of this section shall be held liable in a civil 8115  
action commenced under division (C) of this section, or pay a 8116

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.

(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 of division (A) of this section is located. The treasurer shall deposit the civil penalty in equal amounts into the school district's general fund and the joint vocational school district's general fund. If a joint vocational school district does not exist where the violation occurred, then the entire sum of the civil penalty shall be deposited into the school district's general fund.

(D) Pursuant to section 5525.21 of the Revised Code, the 8150  
director of transportation may authorize the purchase or provision 8151  
or both of a minimal amount of foreign steel products for use in 8152  
contracts for public bridge projects. 8153

The executive director of ~~administrative services~~ the Ohio 8154  
facilities construction commission may waive the requirements of 8155  
division (A) of this section if the executive director determines 8156  
that either division (A) or (B) of section 5525.21 of the Revised 8157  
Code is true in connection with a public bridge project. The 8158  
executive director shall issue this determination in writing. 8159

(E) The following notice shall be included in boldface type 8160  
and capital letters in all bid notifications and specifications 8161  
between all parties to any contract authorized under Chapter 153. 8162  
of the Revised Code or subject to this section and section 153.99 8163  
of the Revised Code: "Domestic steel use requirements as specified 8164  
in section 153.011 of the Revised Code apply to this project. 8165  
Copies of section 153.011 of the Revised Code can be obtained from 8166  
~~any of the offices~~ office of the ~~department of administrative~~ 8167  
~~services~~ Ohio facilities construction commission." 8168

(F) As used in this section: 8169

(1) "Steel products" means products rolled, formed, shaped, 8170  
drawn, extruded, forged, cast, fabricated or otherwise similarly 8171  
processed, or processed by a combination of two or more of such 8172  
operations, and used for load-bearing structural purposes, from 8173  
steel made in the United States by the open hearth, basic oxygen, 8174  
electric furnace, bessemer or other steel making process. 8175

(2) "United States" means the United States of America and 8176  
includes all territory, continental or insular, subject to the 8177  
jurisdiction of the United States. 8178

**Sec. 153.013.** If a project for the construction, alteration, 8179

or other improvement of a building or structure is administered by 8180  
the executive director of ~~administrative services~~ the Ohio 8181  
facilities construction commission or by another state agency 8182  
authorized to administer a project under this chapter, if the 8183  
project is located in a municipal corporation with a population of 8184  
at least four hundred thousand that is in a county with a 8185  
population of at least one million two hundred thousand, and if a 8186  
political subdivision contributes at least one hundred thousand 8187  
dollars to the project, then a contractor for the project shall 8188  
comply with regulations or ordinances of the political subdivision 8189  
that are in effect before July 1, 2009, and that specifically 8190  
relate to the employment of residents and local businesses of the 8191  
political subdivision in the performance of the work of the 8192  
project, and such ordinances or regulations shall be included by 8193  
reference unambiguously in the contract between the administering 8194  
state agency and the contractor for the project. 8195

**Sec. 153.02.** (A) The executive director of ~~administrative~~ 8196  
~~services, on the director's own initiative or upon request of the~~ 8197  
Ohio ~~school~~ facilities construction commission, may debar a 8198  
contractor from contract awards for public improvements as 8199  
referred to in section 153.01 of the Revised Code or for projects 8200  
as defined in section 3318.01 of the Revised Code, upon proof that 8201  
the contractor has done any of the following: 8202

(1) Defaulted on a contract requiring the execution of a 8203  
takeover agreement as set forth in division (B) of section 153.17 8204  
of the Revised Code; 8205

(2) Knowingly failed during the course of a contract to 8206  
maintain the coverage required by the bureau of workers' 8207  
compensation; 8208

(3) Knowingly failed during the course of a contract to 8209

maintain the contractor's drug-free workplace program as required 8210  
by the contract; 8211

(4) Knowingly failed during the course of a contract to 8212  
maintain insurance required by the contract or otherwise by law, 8213  
resulting in a substantial loss to the owner, as owner is referred 8214  
to in section 153.01 of the Revised Code, or to the commission and 8215  
school district board, as provided in division (F) of section 8216  
3318.08 of the Revised Code; 8217

(5) Misrepresented the firm's qualifications in the selection 8218  
process set forth in sections 153.65 to 153.71 or section 3318.10 8219  
of the Revised Code; 8220

(6) Been convicted of a criminal offense related to the 8221  
application for or performance of any public or private contract, 8222  
including, but not limited to, embezzlement, theft, forgery, 8223  
bribery, falsification or destruction of records, receiving stolen 8224  
property, and any other offense that directly reflects on the 8225  
contractor's business integrity; 8226

(7) Been convicted of a criminal offense under state or 8227  
federal antitrust laws; 8228

(8) Deliberately or willfully submitted false or misleading 8229  
information in connection with the application for or performance 8230  
of a public contract; 8231

(9) Been debarred from bidding on or participating in a 8232  
contract with any state or federal agency. 8233

(B) When the executive director reasonably believes that 8234  
grounds for debarment exist, the executive director shall send the 8235  
contractor a notice of proposed debarment indicating the grounds 8236  
for the proposed debarment and the procedure for requesting a 8237  
hearing on the proposed debarment. The hearing shall be conducted 8238  
in accordance with Chapter 119. of the Revised Code. If the 8239  
contractor does not respond with a request for a hearing in the 8240

manner specified in Chapter 119. of the Revised Code, the 8241  
executive director shall issue the debarment decision without a 8242  
hearing and shall notify the contractor of the decision by 8243  
certified mail, return receipt requested. 8244

(C) The executive director shall determine the length of the 8245  
debarment period and may rescind the debarment at any time upon 8246  
notification to the contractor. During the period of debarment, 8247  
the contractor is not eligible to bid for or participate in any 8248  
contract for a public improvement as referred to in section 153.01 8249  
of the Revised Code or for a project as defined in section 3318.01 8250  
of the Revised Code. After the debarment period expires, the 8251  
contractor shall be eligible to bid for and participate in such 8252  
contracts. 8253

(D) The executive director, ~~through the office of the state~~ 8254  
~~architect~~, shall maintain a list of all contractors currently 8255  
debarred under this section. Any governmental entity awarding a 8256  
contract for construction of a public improvement or project may 8257  
use a contractor's presence on the debarment list to determine 8258  
whether a contractor is responsible or best under section 9.312 or 8259  
any other section of the Revised Code in the award of a contract. 8260

**Sec. 153.04.** The plans, details, bills of material, 8261  
specifications of work, estimates of cost in detail and in the 8262  
aggregate, life-cycle cost analysis, form of bid, bid guaranty, 8263  
and other data that may be required shall be prepared on such 8264  
material and in such manner and form as are prescribed by the 8265  
~~department of administrative services~~ Ohio facilities construction 8266  
commission. The life-cycle costs shall be a primary consideration 8267  
in the selection of a design. The same shall be deposited and 8268  
safely kept in the office of the owner as defined in section 8269  
153.01 of the Revised Code as the property of the state. 8270

**Sec. 153.06.** After the proceedings required by sections 8271  
153.01 and 153.04 of the Revised Code have been complied with, the 8272  
owner referred to in section 153.01 of the Revised Code shall give 8273  
public notice of the time and place when and where bids will be 8274  
received for performing the labor and furnishing the materials of 8275  
such construction, improvement, alteration, addition, or 8276  
installation, and a contract awarded, except for materials 8277  
manufactured by the state or labor supplied by a county department 8278  
of job and family services that may enter into the same. The form 8279  
of bid approved by the ~~department of administrative services~~ Ohio 8280  
facilities construction commission shall be used, and a bid shall 8281  
be invalid and not considered unless such form is used without 8282  
change, alteration, or addition. Bidders may be permitted to bid 8283  
upon all the branches of work and materials to be furnished and 8284  
supplied, or upon any thereof, or alternately upon all or any 8285  
thereof. 8286

**Sec. 153.07.** The notice provided for in section 153.06 of the 8287  
Revised Code shall be published once each week for three 8288  
consecutive weeks in a newspaper of general circulation, or as 8289  
provided in section 7.16 of the Revised Code, in the county where 8290  
the activity for which bids are submitted is to occur and in such 8291  
other newspapers as ordered by the ~~department of administrative~~ 8292  
~~services~~ Ohio facilities construction commission, the last 8293  
publication to be at least eight days preceding the day for 8294  
opening the bids, and in such form and with such phraseology as 8295  
the ~~department~~ commission orders. Copies of the plans, details, 8296  
estimates of cost, and specifications shall be open to public 8297  
inspection at all business hours between the day of the first 8298  
publication and the day for opening the bids, at the office of the 8299  
~~department~~ commission where the bids are received, and such other 8300  
place as may be designated in such notice. 8301

Sec. 153.08. On the day and at the place named in the notice 8302  
provided for in section 153.06 of the Revised Code, the owner 8303  
referred to in section 153.01 of the Revised Code shall open the 8304  
bids and shall publicly, with the assistance of the architect or 8305  
engineer, immediately proceed to tabulate the bids upon duplicate 8306  
sheets. The public bid opening may be broadcast by electronic 8307  
means pursuant to rules established by the ~~director of~~ 8308  
~~administrative services~~ Ohio facilities construction commission. A 8309  
bid shall be invalid and not considered unless a bid guaranty 8310  
meeting the requirements of section 153.54 of the Revised Code and 8311  
in the form approved by the ~~department of administrative services~~ 8312  
commission is filed with such bid. For a bid that is not filed 8313  
electronically, the bid and bid guaranty shall be filed in one 8314  
sealed envelope. If the bid and bid guaranty are filed 8315  
electronically, they must be received electronically before the 8316  
deadline published pursuant to section 153.06 of the Revised Code. 8317  
For all bids filed electronically, the original, unaltered bid 8318  
guaranty shall be made available to the public authority after the 8319  
public bid opening. After investigation, which shall be completed 8320  
within thirty days, the contract shall be awarded by such owner to 8321  
the lowest responsive and responsible bidder in accordance with 8322  
section 9.312 of the Revised Code. 8323

No contract shall be entered into until the industrial 8324  
commission has certified that the person so awarded the contract 8325  
has complied with sections 4123.01 to 4123.94 of the Revised Code, 8326  
until, if the bidder so awarded the contract is a foreign 8327  
corporation, the secretary of state has certified that such 8328  
corporation is authorized to do business in this state, until, if 8329  
the bidder so awarded the contract is a person nonresident of this 8330  
state, such person has filed with the secretary of state a power 8331  
of attorney designating the secretary of state as its agent for 8332  
the purpose of accepting service of summons in any action brought 8333

under section 153.05 of the Revised Code or under sections 4123.01 8334  
to 4123.94 of the Revised Code, and until the contract and bond, 8335  
if any, are submitted to the attorney general and the attorney 8336  
general's approval certified thereon. 8337

No contract shall be entered into unless the bidder possesses 8338  
a valid certificate of compliance with affirmative action programs 8339  
issued pursuant to section 9.47 of the Revised Code and dated no 8340  
earlier than one hundred eighty days prior to the date fixed for 8341  
the opening of bids for a particular project. 8342

**Sec. 153.09.** If in the opinion of the owner referred to in 8343  
section 153.01 of the Revised Code, the award of a contract to the 8344  
lowest responsive and responsible bidder is not in the best 8345  
interests of the state, the owner may accept another bid so opened 8346  
or reject all bids, and advertise for other bids. Such 8347  
advertisement shall be for such time, in such form, and in such 8348  
newspaper as the ~~department~~ Ohio facilities construction 8349  
commission directs. All contracts shall provide that such owner 8350  
may make any change in work or materials on the conditions and in 8351  
the manner provided in sections 153.10 and 153.11 of the Revised 8352  
Code. 8353

**Sec. 153.11.** Whenever the change referred to in section 8354  
153.10 of the Revised Code is approved by the owner as defined in 8355  
section 153.01 of the Revised Code, accepted in writing by the 8356  
contractor, and filed, the same shall be considered as being a 8357  
part of the original contract, and the bond theretofore executed 8358  
shall be ~~held~~ increased or decreased accordingly to include and 8359  
cover the ~~same~~ change in the contract. 8360

**Sec. 153.12.** (A) With respect to award of any contract for 8361  
the construction, reconstruction, improvement, enlargement, 8362  
alteration, repair, painting, or decoration of a public 8363

improvement made by the state, or any county, township, municipal 8364  
corporation, school district, or other political subdivision, or 8365  
any public board, commission, authority, instrumentality, or 8366  
special purpose district of or in the state or a political 8367  
subdivision or that is authorized by state law, the award, and 8368  
execution of the contract, shall be made within sixty days after 8369  
the date on which the bids are opened. The failure to award and 8370  
execute the contract within sixty days invalidates the entire bid 8371  
proceedings and all bids submitted, unless the time for awarding 8372  
and executing the contract is extended by mutual consent of the 8373  
owner or its representatives and the bidder whose bid the owner 8374  
accepts and with respect to whom the owner subsequently awards and 8375  
executes a contract. The public owners referred to in this section 8376  
shall include, in the plans and specifications for the project for 8377  
which bids are solicited, the estimate of cost. The bid for which 8378  
the award is to be made shall be opened at the time and place 8379  
named in the advertisement for bids, unless extended by the owner 8380  
or its representative or unless, within seventy-two hours prior to 8381  
the published time for the opening of bids, excluding Saturdays, 8382  
Sundays, and legal holidays, any modification of the plans or 8383  
specifications and estimates of cost for the project for which 8384  
bids are solicited is issued and mailed or otherwise furnished to 8385  
persons who have obtained plans or specifications for the project, 8386  
for which the time for opening of bids shall be extended one week, 8387  
with no further advertising of bids required. The contractor, upon 8388  
request, is entitled to a notice to proceed with the work by the 8389  
owner or its representative upon execution of the contract. No 8390  
contract to which this section applies shall be entered into if 8391  
the price of the contract, or, if the project involves multiple 8392  
contracts where the total price of all contracts for the project, 8393  
is in excess of ten per cent above the entire estimate thereof, 8394  
nor shall the entire cost of the construction, reconstruction, 8395  
repair, painting, decorating, improvement, alteration, addition, 8396

or installation, including changes and estimates of expenses for 8397  
architects or engineers, exceed in the aggregate the amount 8398  
authorized by law. 8399

The unit or lump sum price stated in the contract shall be 8400  
used in determining the amount to be paid and shall constitute 8401  
full and final compensation for all the work. 8402

Partial payment to the contractor for work performed under 8403  
the lump sum price shall be based on a schedule prepared by the 8404  
contractor and approved by the architect or engineer who shall 8405  
apportion the lump sum price to the major components entering into 8406  
or forming a part of the work under the lump sum price. 8407

Partial payments to the contractor for labor performed under 8408  
either a unit or lump sum price contract shall be made at the rate 8409  
of ninety-two per cent of the estimates prepared by the contractor 8410  
and approved by the architect or engineer. All labor performed 8411  
after the job is fifty per cent completed shall be paid for at the 8412  
rate of one hundred per cent of the estimates submitted by the 8413  
contractor and approved by the architect or engineer. 8414

The amounts and time of payments of any public improvements 8415  
contract made by the state or any county, township, municipal 8416  
corporation, school district, or other political subdivision, or 8417  
any public board, commission, authority, instrumentality, or 8418  
special purpose district of or in the state or a political 8419  
subdivision or that is authorized by state law, except as provided 8420  
in section 5525.19 of the Revised Code, shall be governed by this 8421  
section and sections 153.13 and 153.14 of the Revised Code. If the 8422  
time for awarding the contract is extended by mutual consent, or 8423  
if the owner or its representative fails to issue a timely notice 8424  
to proceed as required by this section, the owner or its 8425  
representative shall issue a change order authorizing delay costs 8426  
to the contractor, which does not invalidate the contract. The 8427  
amount of such a change order to the owner shall be determined in 8428

accordance with the provisions of the contract for change orders 8429  
or force accounts or, if no such provision is set forth in the 8430  
contract, the cost to the owner shall be the contractor's actual 8431  
costs including wages, labor costs other than wages, wage taxes, 8432  
materials, equipment costs and rentals, insurance, and 8433  
subcontracts attributable to the delay, plus a reasonable sum for 8434  
overhead. In the event of a dispute between the owner and the 8435  
contractor concerning such change order, procedures shall be 8436  
commenced under the applicable terms of the contract, or, if the 8437  
contract contains no provision for resolving the dispute, it shall 8438  
be resolved pursuant to the procedures for arbitration in Chapter 8439  
2711. of the Revised Code, except as provided in division (B) of 8440  
this section. Nothing in this division shall be construed as a 8441  
limitation upon the authority of the director of transportation 8442  
granted in Chapter 5525. of the Revised Code. 8443

(B) If a dispute arises between the state and a contractor 8444  
concerning the terms of a public improvement contract let by the 8445  
state or concerning a breach of the contract, and after 8446  
administrative remedies provided for in such contract and any 8447  
alternative dispute resolution procedures provided in accordance 8448  
with guidelines established by the executive director of 8449  
~~administrative services~~ the Ohio facilities construction 8450  
commission are exhausted, the contractor may bring an action to 8451  
the court of claims in accordance with Chapter 2743. of the 8452  
Revised Code. The state or the contractor may request the chief 8453  
justice of the supreme court to appoint a referee or panel of 8454  
referees in accordance with division (C)(3) of section 2743.03 of 8455  
the Revised Code. As used in this division, "dispute" means a 8456  
disagreement between the state and the contractor concerning a 8457  
public improvement contract let by the state. 8458

**Sec. 153.14.** For the construction of those projects, 8459  
improvements, and public buildings over which the ~~director of~~ 8460

~~administrative services~~ Ohio facilities construction commission 8461  
has general supervision pursuant to section ~~123.01~~ 123.21 of the 8462  
Revised Code, the estimates referred to in section 153.13 of the 8463  
Revised Code shall be filed with the executive director by the 8464  
owner referred to in section 153.01 or 153.12 of the Revised Code. 8465  
Upon completion of a project referred to in section 153.13 of the 8466  
Revised Code or any divisible part thereof, the maintenance and 8467  
repair of such project or divisible part shall be assumed by the 8468  
owner referred to in section 153.01 or 153.12 of the Revised Code. 8469

In addition to all other payments on account of work 8470  
performed, there shall be allowed by the owner referred to in 8471  
section 153.01 or 153.12 of the Revised Code and paid to the 8472  
contractor a sum at the rate of ninety-two per cent of the invoice 8473  
costs, not to exceed the bid price in a unit price contract, of 8474  
material delivered on the site of the work, or a railroad station, 8475  
siding, or other point in the vicinity of the work, or other 8476  
approved storage site, provided such materials have been inspected 8477  
and found to meet the specifications. The balance of such invoiced 8478  
value shall be paid when such material is incorporated into and 8479  
becomes a part of such building, construction, addition, 8480  
improvement, alteration, or installation. When an estimate is 8481  
allowed on account of material delivered on the site of the work 8482  
or in the vicinity thereof or under the possession and control of 8483  
the contractor but not yet incorporated therein, such material 8484  
shall become the property of the owner under the contract, but if 8485  
such material is stolen, destroyed, or damaged by casualty before 8486  
being used, the contractor shall be required to replace it at ~~his~~ 8487  
the contractor's own expense. 8488

When the rate of work and amounts involved are so large that 8489  
it is considered advisable by the owner or contractor, estimates 8490  
and payments shall be made twice each month. 8491

Payment on approved estimates filed with the owner or its 8492

representative shall be made within thirty days. Upon the failure 8493  
of the owner or its representative to make such payments within 8494  
thirty days, or upon an unauthorized withholding of retainage, 8495  
there shall be allowed to the contractor, in addition to any other 8496  
remedies allowed by law, interest on such moneys not paid within 8497  
thirty days. Interest on the unauthorized withholding of retainage 8498  
shall be in addition to any interest earned in the escrow account 8499  
set forth in section 153.13 of the Revised Code. The rate of such 8500  
interest shall be the average of the prime rate established at the 8501  
commercial banks in the city of over one hundred thousand 8502  
population that is nearest the construction project. Nothing in 8503  
this section shall be construed as a limitation upon the authority 8504  
of the director of transportation granted in Chapter 5525. of the 8505  
Revised Code. 8506

**Sec. 153.16.** (A) The executive director of administrative 8507  
services the Ohio facilities construction commission shall 8508  
establish policy and procedure guidelines for contract documents 8509  
in conjunction with the administration of public works contracts 8510  
that the state or any institution supported in whole or in part by 8511  
the state enters into for any project subject to sections 153.01 8512  
to 153.11 of the Revised Code. 8513

(B) Notwithstanding any contract provision to the contrary, 8514  
any claim submitted under a public works contract that the state 8515  
or any institution supported in whole or in part by the state 8516  
enters into for any project subject to sections 153.01 to 153.11 8517  
of the Revised Code shall be resolved within one hundred twenty 8518  
days. After the end of this one hundred twenty-day period, the 8519  
contractor shall be deemed to have exhausted all administrative 8520  
remedies for purposes of division (B) of section 153.12 of the 8521  
Revised Code. 8522

**Sec. 153.17.** (A) When in the opinion of the owner referred to 8523

in section 153.01 of the Revised Code, the work under any contract 8524  
made under any law of the state is neglected by the contractor or 8525  
such work is not prosecuted with the diligence and force specified 8526  
or intended in the contract, such owner may make requisition upon 8527  
the contractor for such additional specific force or materials to 8528  
be brought into the work under such contract or to remove improper 8529  
materials from the grounds as in their judgment the contract and 8530  
its faithful fulfillment requires. 8531

Not less than five days' notice in writing of such action 8532  
shall be served upon the contractor or the contractor's agent in 8533  
charge of the work. If the contractor fails to comply with such 8534  
requisition within fifteen days, such owner with the written 8535  
consent of the ~~department of administrative services~~ Ohio 8536  
facilities construction commission, may employ upon the work the 8537  
additional force, or supply the special materials or such part of 8538  
either as is considered proper, and may remove improper materials 8539  
from the grounds. 8540

(B) When the original contractor has defaulted on a contract 8541  
and the surety has declined to take over the project, the owner 8542  
may contract with one or more takeover contractors to complete 8543  
work that was not finished because of the default of the original 8544  
contractor. The owner may enter into a contract with a takeover 8545  
contractor without competitive bidding or controlling board 8546  
approval. Upon execution of a takeover contract, the owner shall 8547  
notify the director of budget and management. 8548

When the owner has taken over a project after a default has 8549  
occurred, any moneys that the owner receives from the surety as a 8550  
settlement for completion of the project shall be deposited in the 8551  
original fund from which the capital appropriation for the project 8552  
was made. The executive director, without controlling board 8553  
approval, may authorize specified additional uses for the moneys 8554  
related to completion of the project and may increase the 8555

appropriation authority in the appropriation line item used to 8556  
fund the project by an amount equal to the moneys received from 8557  
the surety. 8558

**Sec. 153.502.** (A) Each construction manager at risk and 8559  
design-build firm shall establish criteria by which it will 8560  
prequalify prospective bidders on subcontracts awarded for work to 8561  
be performed under the construction management or design-build 8562  
contract. The criteria established by a construction manager at 8563  
risk or design-build firm shall be subject to the approval of the 8564  
public authority involved in the project and shall be consistent 8565  
with the rules adopted by the ~~department of administrative~~ 8566  
~~services~~ Ohio facilities construction commission pursuant to 8567  
section 153.503 of the Revised Code. 8568

(B) For each subcontract to be awarded, the construction 8569  
manager at risk or design-build firm shall identify at least three 8570  
prospective bidders that are prequalified to bid on that 8571  
subcontract, except that the construction manager at risk or 8572  
design-build firm shall identify fewer than three if the 8573  
construction manager at risk or design-build firm establishes to 8574  
the satisfaction of the public authority that fewer than three 8575  
prequalified bidders are available. The public authority shall 8576  
verify that each prospective bidder meets the prequalification 8577  
criteria and may eliminate any bidder it determines is not 8578  
qualified. 8579

(C) Once the prospective bidders are prequalified and found 8580  
acceptable by the public authority, the construction manager at 8581  
risk or design-build firm shall solicit proposals from each of 8582  
those bidders. The solicitation and selection of a subcontractor 8583  
shall be conducted under an open book pricing method. As used in 8584  
this division, "open book pricing method" has the same meaning as 8585  
in section 9.33 of the Revised Code, in the case of a construction 8586

manager at risk, and the same meaning as in section 153.65 of the Revised Code, in the case of a design-build firm. 8587  
8588

(D) A construction manager at risk or design-build firm shall not be required to award a subcontract to a low bidder. 8589  
8590

**Sec. 153.503.** ~~The department of administrative services Ohio~~ 8591  
facilities construction commission, pursuant to Chapter 119. of 8592  
the Revised Code ~~and not later than June 30, 2012~~, shall adopt 8593  
rules to do all of the following: 8594

(A) Prescribe the procedures and criteria for determining the best value selection of a construction manager at risk or design-build firm; 8595  
8596  
8597

(B) ~~In consultation with the state architect's office, set~~ 8598  
Set forth standards to be followed by construction managers at 8599  
risk and design-build firms when establishing prequalification 8600  
criteria pursuant to section 153.502 of the Revised Code; 8601

(C) Prescribe the form for the contract documents to be used by a construction manager at risk, design-build firm, or general contractor when entering into a subcontract; 8602  
8603  
8604

(D) Prescribe the form for the contract documents to be used by a public authority when entering into a contract with a construction manager at risk or design-build firm. 8605  
8606  
8607

**Sec. 153.53.** (A) As used in this section, "rate of inflation" has the same meaning as in section 107.032 of the Revised Code. 8608  
8609  
8610

(B) Five years after ~~the effective date of this section~~ 8611  
September 29, 2011, and every five years thereafter, the executive 8612  
director of ~~administrative services~~ the Ohio facilities 8613  
construction commission shall evaluate the monetary threshold 8614  
specified in section 153.01 of the Revised Code and adopt rules 8615

adjusting that amount based on the average rate of inflation 8616  
during each of the previous five years immediately preceding such 8617  
adjustment. 8618

**Sec. 154.01.** As used in this chapter: 8619

(A) "Commission" means the Ohio public facilities commission 8620  
created in section 151.02 of the Revised Code. 8621

(B) "Obligations" means bonds, notes, or other evidences of 8622  
obligation, including interest coupons pertaining thereto, issued 8623  
pursuant to Chapter 154. of the Revised Code. 8624

(C) "Bond proceedings" means the order or orders, resolution 8625  
or resolutions, trust agreement, indenture, lease, and other 8626  
agreements, amendments and supplements to the foregoing, or any 8627  
combination thereof, authorizing or providing for the terms and 8628  
conditions applicable to, or providing for the security of, 8629  
obligations issued pursuant to Chapter 154. of the Revised Code, 8630  
and the provisions contained in such obligations. 8631

(D) "State agencies" means the state of Ohio and officers, 8632  
boards, commissions, departments, divisions, or other units or 8633  
agencies of the state. 8634

(E) "Governmental agency" means state agencies, state 8635  
supported and assisted institutions of higher education, municipal 8636  
corporations, counties, townships, school districts, and any other 8637  
political subdivision or special district in this state 8638  
established pursuant to law, and, except where otherwise 8639  
indicated, also means the United States or any department, 8640  
division, or agency thereof, and any agency, commission, or 8641  
authority established pursuant to an interstate compact or 8642  
agreement. 8643

(F) "Institutions of higher education" and "state supported 8644  
or state assisted institutions of higher education" means the 8645

state universities identified in section 3345.011 of the Revised Code, the northeast Ohio medical university, state universities or colleges at any time created, community college districts, university branch districts, and technical college districts at any time established or operating under Chapter 3354., 3355., or 3357. of the Revised Code, and other institutions for education, including technical education, beyond the high school, receiving state support or assistance for their expenses of operation.

(G) "Governing body" means:

(1) In the case of institutions of higher education, the board of trustees, board of directors, commission, or other body vested by law with the general management, conduct, and control of one or more institutions of higher education;

(2) In the case of a county, the board of county commissioners or other legislative body; in the case of a municipal corporation, the council or other legislative body; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(3) In the case of any other governmental agency, the officer, board, commission, authority or other body having the general management thereof or having jurisdiction or authority in the particular circumstances.

(H) "Person" means any person, firm, partnership, association, or corporation.

(I) "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 state on obligations. If not prohibited by the applicable bond proceedings, bond service charges may include costs relating to credit enhancement facilities that are related to and represent, or are intended to provide a source of payment of or

limitation on, other bond service charges. 8677

(J) "Capital facilities" means buildings, structures, and 8678  
other improvements, and equipment, real estate, and interests in 8679  
real estate therefor, within the state, and any one, part of, or 8680  
combination of the foregoing, to serve the general purposes for 8681  
which the issuing authority is authorized to issue obligations 8682  
pursuant to Chapter 154. of the Revised Code, including, but not 8683  
limited to, drives, roadways, parking facilities, walks, lighting, 8684  
machinery, furnishings, utilities, landscaping, wharves, docks, 8685  
piers, reservoirs, dams, tunnels, bridges, retaining walls, 8686  
riprap, culverts, ditches, channels, watercourses, retention 8687  
basins, standpipes and water storage facilities, waste treatment 8688  
and disposal facilities, heating, air conditioning and 8689  
communications facilities, inns, lodges, cabins, camping sites, 8690  
golf courses, boat and bathing facilities, athletic and 8691  
recreational facilities, and site improvements. 8692

(K) "Costs of capital facilities" means the costs of 8693  
acquiring, constructing, reconstructing, rehabilitating, 8694  
remodeling, renovating, enlarging, improving, equipping, or 8695  
furnishing capital facilities, and the financing thereof, 8696  
including the cost of clearance and preparation of the site and of 8697  
any land to be used in connection with capital facilities, the 8698  
cost of any indemnity and surety bonds and premiums on insurance, 8699  
all related direct administrative expenses and allocable portions 8700  
of direct costs of the commission or issuing authority and 8701  
department of administrative services, or other designees of the 8702  
commission under section 154.17 of the Revised Code, cost of 8703  
engineering and architectural services, designs, plans, 8704  
specifications, surveys, and estimates of cost, legal fees, fees 8705  
and expenses of trustees, depositories, and paying agents for the 8706  
obligations, cost of issuance of the obligations and financing 8707  
charges and fees and expenses of financial advisers and 8708

consultants in connection therewith, interest on obligations, 8709  
including but not limited to, interest from the date ~~thereof~~ of 8710  
their issuance to the time when interest is to be covered from 8711  
sources other than proceeds of obligations, amounts necessary to 8712  
establish reserves as required by the bond proceedings, costs of 8713  
audits, the reimbursement of all moneys advanced or applied by or 8714  
borrowed from any governmental agency, whether to or by the 8715  
commission or others, from whatever source provided, for the 8716  
payment of any item or items of cost of the capital facilities, 8717  
any share of the cost undertaken by the commission pursuant to 8718  
arrangements made with governmental agencies under division (H) of 8719  
section 154.06 of the Revised Code, and all other expenses 8720  
necessary or incident to planning or determining feasibility or 8721  
practicability with respect to capital facilities, and such other 8722  
expenses as may be necessary or incident to the acquisition, 8723  
construction, reconstruction, rehabilitation, remodeling, 8724  
renovation, enlargement, improvement, equipment, and furnishing of 8725  
capital facilities, the financing thereof and the placing of the 8726  
same in use and operation, including any one, part of, or 8727  
combination of such classes of costs and expenses. 8728

(L) "Public service facilities" means inns, lodges, hotels, 8729  
cabins, camping sites, scenic trails, picnic sites, restaurants, 8730  
commissaries, golf courses, boating and bathing facilities and 8731  
other similar facilities in state parks. 8732

(M) "State parks" means: 8733

(1) State reservoirs described and identified in section 8734  
1541.06 of the Revised Code; 8735

(2) All lands or interests therein of the state identified as 8736  
administered by the division of parks and recreation in the 8737  
"inventory of state owned lands administered by the department of 8738  
natural resources as of June 1, 1963," as recorded in the journal 8739  
of the director, which inventory was prepared by the real estate 8740

section of the department and is supported by maps now on file in 8741  
said real estate section; 8742

(3) All lands or interests in lands of the state designated 8743  
after June 1, 1963, as state parks in the journal of the director 8744  
with the approval of the recreation and resources council. 8745

State parks do not include any lands or interest in lands of 8746  
the state administered jointly by two or more divisions of the 8747  
department of natural resources. The designation of lands as state 8748  
parks under divisions (M)(1) to (3) of this section is conclusive 8749  
and such lands shall be under the control of and administered by 8750  
the division of parks and recreation. No order or proceeding 8751  
designating lands as state parks or park purchase areas is subject 8752  
to any appeal or review by any officer, board, commission, or 8753  
court. 8754

(N) "Bond service fund" means the applicable fund created for 8755  
and pledged to the payment of bond service charges under section 8756  
154.20, 154.21, 154.22, or 154.23 of the Revised Code, including 8757  
all moneys and investments, and earnings from investments, 8758  
credited and to be credited thereto. 8759

(O) "Improvement fund" means the applicable fund created for 8760  
the payment of costs of capital facilities under section 154.20, 8761  
154.21, 154.22, or 3383.09 of the Revised Code, including all 8762  
moneys and investments, and earnings from investments, credited 8763  
and to be credited thereto. 8764

(P) "Special funds" or "funds" means, except where the 8765  
context does not permit, the bond service funds, the improvements 8766  
funds, and any other funds for similar or different purposes 8767  
created under bond proceedings, including all moneys and 8768  
investments, and earnings from investments, credited and to be 8769  
credited thereto. 8770

(Q) "Year" unless the context indicates a different meaning 8771

or intent, means a calendar year beginning on the first day of 8772  
January and ending on the thirty-first day of December. 8773

(R) "Fiscal year" means the period of twelve months beginning 8774  
on the first day of July and ending on the thirtieth day of June. 8775

(S) "Issuing authority" means the treasurer of state or the 8776  
officer or employee who by law performs the functions of that 8777  
office. 8778

(T) "Credit enhancement facilities" has the same meaning as 8779  
in section 133.01 of the Revised Code. 8780

(U) "Ohio cultural facility" and "Ohio sports facility" have 8781  
the same meanings as in section 3383.01 of the Revised Code. 8782

**Sec. 167.04.** (A) The regional council of governments shall 8783  
adopt by-laws, by a majority vote of its members, designating the 8784  
officers of the council and the method of their selection, 8785  
creating a governing board that may act for the council as 8786  
provided in the by-laws, and providing for the conduct of its 8787  
business. 8788

(B) The by-laws of the regional council of governments shall 8789  
provide for the appointment of a fiscal officer, who may hold any 8790  
other office or employment with the council, and who shall 8791  
receive, deposit, invest, and disburse the funds of the council in 8792  
the manner authorized by the by-laws or action by the council. 8793

(C) The by-laws of a regional council of governments the 8794  
members of which include, under sections 167.01 and 167.02 of the 8795  
Revised Code, at least eight counties may include a provision 8796  
authorizing member attendance and voting at council meetings 8797  
either in person or by proxy. 8798

(D)(1) Within ten business days after forming a regional 8799  
council of governments, the officers of the council shall notify 8800  
the auditor of state of the regional council's formation and shall 8801

provide on a form prescribed by the auditor of state the 8802  
information regarding the regional council that the auditor of 8803  
state considers necessary. 8804

(2) As used in this division, "business day" means a day of 8805  
the week, excluding Saturday, Sunday, or a legal holiday as 8806  
defined in section 1.14 of the Revised Code. 8807

Sec. 171.021. Notwithstanding division (C) of section 121.22 8808  
of the Revised Code, rules adopted by the Ohio retirement study 8809  
council regarding meetings of the council shall prohibit a member 8810  
from voting on a matter before the council except while sitting in 8811  
a meeting of the council, unless the member shall have first been 8812  
present and recorded as such during that meeting before the vote 8813  
is taken, and by motion the roll call is continued for a vote by 8814  
any member who is temporarily absent from the meeting until the 8815  
adjournment thereof, which shall be not later than twelve noon one 8816  
day following the meeting. 8817

Sec. 173.14. As used in sections 173.14 to 173.27 of the 8818  
Revised Code: 8819

(A)(1) Except as otherwise provided in division (A)(2) of 8820  
this section, "long-term care facility" includes any residential 8821  
facility that provides personal care services for more than 8822  
twenty-four hours for ~~two~~ one or more unrelated adults, including 8823  
all of the following: 8824

(a) A "nursing home," "residential care facility," or "home 8825  
for the aging" as defined in section 3721.01 of the Revised Code; 8826

(b) A facility authorized to provide extended care services 8827  
under Title XVIII of the "Social Security Act," 49 Stat. 620 8828  
(1935), 42 U.S.C. 301, as amended, including a long-term acute 8829  
care hospital that provides medical and rehabilitative care to 8830  
patients who require an average length of stay greater than 8831

twenty-five days and is classified by the centers for medicare and 8832  
medicaid services as a long-term care hospital pursuant to 42 8833  
C.F.R. 412.23(e); 8834

(c) A county home or district home operated pursuant to 8835  
Chapter 5155. of the Revised Code; 8836

(d) ~~An "adult care~~ A residential facility ~~as defined in~~ 8837  
licensed under section ~~5119.70~~ 5119.22 of the Revised Code ~~that~~ 8838  
provides accommodations, supervision, and personal care services 8839  
for three to sixteen unrelated adults or accommodations and 8840  
personal care services for only one or two adults who are 8841  
recipients under the residential state supplement program; 8842

(e) A facility approved by the veterans administration under 8843  
section 104(a) of the "Veterans Health Care Amendments of 1983," 8844  
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 8845  
the placement and care of veterans; 8846

~~(f) An adult foster home certified under section 5119.692 of~~ 8847  
~~the Revised Code.~~ 8848

(2) "Long-term care facility" does not include a ~~"residential~~ 8849  
~~facility" as defined in section 5119.22 of the Revised Code or a~~ 8850  
~~"residential facility" as defined in~~ licensed under section 8851  
5123.19 of the Revised Code. 8852

(B) "Resident" means a resident of a long-term care facility 8853  
and, where appropriate, includes a prospective, previous, or 8854  
deceased resident of a long-term care facility. 8855

(C) "Community-based long-term care services" means health 8856  
and social services provided to persons in their own homes or in 8857  
community care settings, and includes any of the following: 8858

(1) Case management; 8859

(2) Home health care; 8860

(3) Homemaker services; 8861

|  |                                      |
|--|--------------------------------------|
| (4) Chore services;  | 8862                                 |
| (5) Respite care;  | 8863                                 |
| (6) Adult day care;  | 8864                                 |
| (7) Home-delivered meals;  | 8865                                 |
| (8) Personal care;   | 8866                                 |
| (9) Physical, occupational, and speech therapy;  | 8867                                 |
| (10) Transportation;   | 8868                                 |
| (11) Any other health and social services provided to persons<br>that allow them to retain their independence in their own homes or<br>in community care settings.   | 8869<br>8870<br>8871                 |
| (D) "Recipient" means a recipient of community-based<br>long-term care services and, where appropriate, includes a<br>prospective, previous, or deceased recipient of community-based<br>long-term care services.  | 8872<br>8873<br>8874<br>8875         |
| (E) "Sponsor" means an adult relative, friend, or guardian<br>who has an interest in or responsibility for the welfare of a<br>resident or a recipient.  | 8876<br>8877<br>8878                 |
| (F) "Personal care services" has the same meaning as in<br>section 3721.01 of the Revised Code.  | 8879<br>8880                         |
| (G) "Regional long-term care ombudsperson program" means an<br>entity, either public or private and nonprofit, designated as a<br>regional long-term care ombudsperson program by the state<br>long-term care ombudsperson.  | 8881<br>8882<br>8883<br>8884         |
| (H) "Representative of the office of the state long-term care<br>ombudsperson program" means the state long-term care ombudsperson<br>or a member of the ombudsperson's staff, or a person certified as<br>a representative of the office under section 173.21 of the Revised<br>Code. | 8885<br>8886<br>8887<br>8888<br>8889 |
| (I) "Area agency on aging" means an area agency on aging   | 8890                                 |

established under the "Older Americans Act of 1965," 79 Stat. 219, 8891  
42 U.S.C.A. 3001, as amended. 8892

**Sec. 173.21.** (A) The office of the state long-term care 8893  
ombudsperson program, through the state long-term care 8894  
ombudsperson and the regional long-term care ombudsperson 8895  
programs, shall require each representative of the office to 8896  
complete a training and certification program in accordance with 8897  
this section and to meet the continuing education requirements 8898  
established under this section. 8899

(B) The department of aging shall adopt rules under Chapter 8900  
119. of the Revised Code specifying the content of training 8901  
programs for representatives of the office of the state long-term 8902  
care ombudsperson program. Training for representatives other than 8903  
those who are volunteers providing services through regional 8904  
long-term care ombudsperson programs shall include instruction 8905  
regarding federal, state, and local laws, rules, and policies on 8906  
long-term care facilities and community-based long-term care 8907  
services; investigative techniques; and other topics considered 8908  
relevant by the department and shall consist of the following: 8909

(1) A minimum of forty clock hours of basic instruction, 8910  
which shall be completed before the trainee is permitted to handle 8911  
complaints without the supervision of a representative of the 8912  
office certified under this section; 8913

(2) An additional sixty clock hours of instruction, which 8914  
shall be completed within the first fifteen months of employment; 8915

(3) An internship of twenty clock hours, which shall be 8916  
completed within the first twenty-four months of employment, 8917  
including instruction in, and observation of, basic nursing care 8918  
and long-term care provider operations and procedures. The 8919  
internship shall be performed at a site that has been approved as 8920  
an internship site by the state long-term care ombudsperson. 8921

(4) One of the following, which shall be completed within the first twenty-four months of employment:

(a) Observation of a survey conducted by the director of health to certify a facility to receive funds under sections 5111.20 to 5111.32 of the Revised Code;

(b) Observation of an inspection conducted by the director of mental health to license ~~an adult care~~ a residential facility under section ~~5119.73~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(5) Any other training considered appropriate by the department.

(C) Persons who for a period of at least six months prior to June 11, 1990, served as ombudsmen through the long-term care ombudsperson program established by the department of aging under division (M) of section 173.01 of the Revised Code shall not be required to complete a training program. These persons and persons who complete a training program shall take an examination administered by the department of aging. On attainment of a passing score, the person shall be certified by the department as a representative of the office. The department shall issue the person an identification card, which the representative shall show at the request of any person with whom the representative deals while performing the representative's duties and which shall be surrendered at the time the representative separates from the office.

(D) The state ombudsperson and each regional program shall conduct training programs for volunteers on their respective staffs in accordance with the rules of the department of aging adopted under division (B) of this section. Training programs may be conducted that train volunteers to complete some, but not all,

of the duties of a representative of the office. Each regional 8953  
office shall bear the cost of training its representatives who are 8954  
volunteers. On completion of a training program, the 8955  
representative shall take an examination administered by the 8956  
department of aging. On attainment of a passing score, a volunteer 8957  
shall be certified by the department as a representative 8958  
authorized to perform services specified in the certification. The 8959  
department shall issue an identification card, which the 8960  
representative shall show at the request of any person with whom 8961  
the representative deals while performing the representative's 8962  
duties and which shall be surrendered at the time the 8963  
representative separates from the office. Except as a supervised 8964  
part of a training program, no volunteer shall perform any duty 8965  
unless he is certified as a representative having received 8966  
appropriate training for that duty. 8967

(E) The state ombudsperson shall provide technical assistance 8968  
to regional programs conducting training programs for volunteers 8969  
and shall monitor the training programs. 8970

(F) Prior to scheduling an observation of a certification 8971  
survey or licensing inspection for purposes of division (B)(4) of 8972  
this section, the state ombudsperson shall obtain permission to 8973  
have the survey or inspection observed from both the director of 8974  
health and the long-term care facility at which the survey or 8975  
inspection is to take place. 8976

(G) The department of aging shall establish continuing 8977  
education requirements for representatives of the office. 8978

**Sec. 173.23.** (A) Representatives of the office of the state 8979  
long-term care ombudsperson program are immune from civil or 8980  
criminal liability for any action taken in the good faith 8981  
performance of their official duties under sections 173.14 to 8982  
173.26 of the Revised Code. ~~The department of aging shall ensure~~ 8983

~~that adequate legal counsel is available to the office of the 8984  
state long term care ombudsperson program for advice and 8985  
consultation and that legal representation is provided to any 8986  
representative of the office against whom any legal action is 8987  
brought in connection with the representative's official duties 8988  
under sections 173.14 to 173.26 of the Revised Code. 8989~~

(B) A person acting in good faith is immune from civil or 8990  
criminal liability incident to any of the following: providing 8991  
information to the office, participating in registration of a 8992  
complaint with the office, participating in investigation of a 8993  
complaint by the office, or participating in an administrative or 8994  
judicial proceeding resulting from a complaint. 8995

(C) No person shall knowingly register a false complaint with 8996  
the office, or knowingly swear or affirm the truth of a false 8997  
complaint previously registered, when the statement is made with 8998  
purpose to incriminate another. 8999

(D) The attorney general shall provide legal counsel to the 9000  
office of the state long-term care ombudsperson program and to the 9001  
regional long-term care ombudsperson programs. The attorney 9002  
general shall represent any representative of the office and any 9003  
representative of a regional program against whom any legal action 9004  
is brought in connection with the representative's official duties 9005  
under sections 173.14 to 173.26 of the Revised Code. 9006

**Sec. 173.26.** (A) Each of the following facilities shall 9007  
annually pay to the department of aging six dollars for each bed 9008  
maintained by the facility for use by a resident during any part 9009  
of the previous year: 9010

(1) Nursing homes, residential care facilities, and homes for 9011  
the aging as defined in section 3721.01 of the Revised Code; 9012

(2) Facilities authorized to provide extended care services 9013

under Title XVIII of the "Social Security Act," 49 Stat. 620 9014  
(1935), 42 U.S.C. 301, as amended, including a long-term acute 9015  
care hospital that provides medical and rehabilitative care to 9016  
patients who require an average length of stay greater than 9017  
twenty-five days and is classified by the centers for medicare and 9018  
medicaid services as a long-term care hospital pursuant to 42 9019  
C.F.R. 412.23(e); 9020

(3) County homes and district homes operated pursuant to 9021  
Chapter 5155. of the Revised Code; 9022

(4) ~~Adult care~~ Residential facilities ~~as defined in licensed~~ 9023  
under section ~~5119.70~~ 5119.22 of the Revised Code that provide 9024  
accommodations, supervision, and personal care services for three 9025  
to sixteen unrelated adults; 9026

(5) Facilities approved by the Veterans Administration under 9027  
Section 104(a) of the "Veterans Health Care Amendments of 1983," 9028  
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 9029  
the placement and care of veterans. 9030

The department shall, by rule adopted in accordance with 9031  
Chapter 119. of the Revised Code, establish deadlines for payments 9032  
required by this section. A facility that fails, within ninety 9033  
days after the established deadline, to pay a payment required by 9034  
this section shall be assessed at two times the original invoiced 9035  
payment. 9036

(B) All money collected under this section shall be deposited 9037  
in the state treasury to the credit of the office of the state 9038  
long-term care ombudsperson program fund, which is hereby created. 9039  
Money credited to the fund shall be used solely to pay the costs 9040  
of operating the regional long-term care ombudsperson programs. 9041

(C) The state long-term care ombudsperson and the regional 9042  
programs may solicit and receive contributions to support the 9043  
operation of the office or a regional program, except that no 9044

contribution shall be solicited or accepted that would interfere 9045  
with the independence or objectivity of the office or program. 9046

**Sec. 173.27.** (A) As used in this section: 9047

(1) "Applicant" means a person who is under final 9048  
consideration for employment with the office of the state 9049  
long-term care ombudsperson program in a full-time, part-time, or 9050  
temporary position that involves providing ombudsperson services 9051  
to residents and recipients. "Applicant" includes, ~~but is not~~ 9052  
~~limited to,~~ a person who is under final consideration for 9053  
employment as the state long-term care ombudsperson or the head of 9054  
a regional long-term care ombudsperson program. "Applicant" does 9055  
not include a person ~~who provides~~ seeking to provide ombudsperson 9056  
services to residents and recipients as a volunteer without 9057  
receiving or expecting to receive any form of remuneration other 9058  
than reimbursement for actual expenses. 9059

(2) "Criminal records check" has the same meaning as in 9060  
section 109.572 of the Revised Code. 9061

(3) "Disqualifying offense" means any of the following: 9062

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 9063  
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 9064  
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 9065  
2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 9066  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 9067  
2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 9068  
2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 9069  
2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 9070  
2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 9071  
2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 9072  
2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 9073  
2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 9074  
2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 9075

2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 9076  
2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 9077  
2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 9078  
2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 9079  
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 9080

(b) Felonious sexual penetration in violation of former 9081  
section 2907.12 of the Revised Code; 9082

(c) A violation of section 2905.04 of the Revised Code as it 9083  
existed prior to July 1, 1996; 9084

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 9085  
the Revised Code when the underlying offense that is the object of 9086  
the conspiracy, attempt, or complicity is one of the offenses 9087  
listed in divisions (A)(3)(a) to (c) of this section; 9088

(e) A violation of an existing or former municipal ordinance 9089  
or law of this state, any other state, or the United States that 9090  
is substantially equivalent to any of the offenses listed in 9091  
divisions (A)(3)(a) to (d) of this section. 9092

(4) "Employee" means a person employed by the office of the 9093  
state long-term care ombudsperson program in a full-time, 9094  
part-time, or temporary position that involves providing 9095  
ombudsperson services to residents and recipients. "Employee" 9096  
includes the person employed as the state long-term care 9097  
ombudsperson and a person employed as the head of a regional 9098  
long-term care ombudsperson program. "Employee" does not include a 9099  
person who provides ombudsperson services to residents and 9100  
recipients as a volunteer without receiving or expecting to 9101  
receive any form of remuneration other than reimbursement for 9102  
actual expenses. 9103

(5) "Responsible entity" means the following: 9104

(a) In the case of an applicant who is under final 9105  
consideration for employment as the state long-term care 9106

ombudsperson or the person employed as the state long-term care 9107  
ombudsperson, the director of aging; 9108

(b) In the case of any other applicant or employee, the state 9109  
long-term care ombudsperson or the ombudsperson's designee. 9110

(B) The office of the state long-term care ombudsperson 9111  
program may not employ an applicant or continue to employ an 9112  
employee in a position that involves providing ombudsperson 9113  
services to residents and recipients if any of the following 9114  
apply: 9115

(1) A review of the databases listed in division (D) of this 9116  
section reveals any of the following: 9117

(a) That the applicant or employee is included in one or more 9118  
of the databases listed in divisions (D)(1) to (5) of this 9119  
section; 9120

(b) That there is in the state nurse aide registry 9121  
established under section 3721.32 of the Revised Code a statement 9122  
detailing findings by the director of health that the applicant or 9123  
employee neglected or abused a long-term care facility or 9124  
residential care facility resident or misappropriated property of 9125  
such a resident; 9126

(c) That the applicant or employee is included in one or more 9127  
of the databases, if any, specified in rules adopted under this 9128  
section and the rules prohibit the office from employing an 9129  
applicant or continuing to employ an employee included in such a 9130  
database in a position that involves providing ombudsperson 9131  
services to residents and recipients. 9132

(2) After the applicant or employee is provided, pursuant to 9133  
division (E)(2)(a) of this section, a copy of the form prescribed 9134  
pursuant to division (C)(1) of section 109.572 of the Revised Code 9135  
and the standard impression sheet prescribed pursuant to division 9136  
(C)(2) of that section, the applicant or employee fails to 9137

complete the form or provide the applicant's or employee's 9138  
fingerprint impressions on the standard impression sheet. 9139

(3) Except as provided in rules adopted under this section, 9140  
the applicant or employee is found by a criminal records check 9141  
required by this section to have been convicted of, pleaded guilty 9142  
to, or been found eligible for intervention in lieu of conviction 9143  
for a disqualifying offense. 9144

(C) The responsible entity shall inform each applicant of 9145  
both of the following at the time of the applicant's initial 9146  
application for employment in a position that involves providing 9147  
ombudsperson services to residents and recipients: 9148

(1) That a review of the databases listed in division (D) of 9149  
this section will be conducted to determine whether the office of 9150  
the state long-term care ombudsperson program is prohibited by 9151  
division (B)(1) of this section from employing the applicant in 9152  
the position; 9153

(2) That, unless the database review reveals that the 9154  
applicant may not be employed in the position, a criminal records 9155  
check of the applicant will be conducted and the applicant is 9156  
required to provide a set of the applicant's fingerprint 9157  
impressions as part of the criminal records check. 9158

(D) As a condition of any applicant's being employed by the 9159  
office of the state long-term care ombudsperson program in a 9160  
position that involves providing ombudsperson services to 9161  
residents and recipients, the responsible entity shall conduct a 9162  
database review of the applicant in accordance with rules adopted 9163  
under this section. If rules adopted under this section so 9164  
require, the responsible entity shall conduct a database review of 9165  
an employee in accordance with the rules as a condition of the 9166  
office's continuing to employ the employee in a position that 9167  
involves providing ombudsperson services to residents and 9168

recipients. A database review shall determine whether the 9169  
applicant or employee is included in any of the following: 9170

(1) The excluded parties list system maintained by the United 9171  
States general services administration pursuant to subpart 9.4 of 9172  
the federal acquisition regulation; 9173

(2) The list of excluded individuals and entities maintained 9174  
by the office of inspector general in the United States department 9175  
of health and human services pursuant to section 1128 of the 9176  
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 9177  
amended, and section 1156 of the "Social Security Act," 96 Stat. 9178  
388 (1982), 42 U.S.C. 1320c-5, as amended; 9179

(3) The registry of MR/DD employees established under section 9180  
5123.52 of the Revised Code; 9181

(4) The internet-based sex offender and child-victim offender 9182  
database established under division (A)(11) of section 2950.13 of 9183  
the Revised Code; 9184

(5) The internet-based database of inmates established under 9185  
section 5120.66 of the Revised Code; 9186

(6) The state nurse aide registry established under section 9187  
3721.32 of the Revised Code; 9188

(7) Any other database, if any, specified in rules adopted 9189  
under this section. 9190

(E)(1) ~~The state long term care ombudsperson or the~~ 9191  
~~ombudsperson's designee~~ As a condition of any applicant's being 9192  
~~employed by the office of the state long-term care ombudsperson~~ 9193  
~~program in a position that involves providing ombudsperson~~ 9194  
~~services to residents and recipients, the responsible entity shall~~ 9195  
~~request that the superintendent of the bureau of criminal~~ 9196  
~~identification and investigation conduct a criminal records check~~ 9197  
~~with respect to each of the applicant. If rules adopted under this~~ 9198

section so require, the responsible entity shall request that the 9199  
superintendent conduct a criminal records check of an employee at 9200  
times specified in the rules as a condition of the office's 9201  
continuing to employ the employee in a position that involves 9202  
providing ombudsperson services to residents and recipients. 9203  
However, ~~if the applicant is under final consideration for~~ 9204  
~~employment as the state long term care ombudsperson, the director~~ 9205  
~~of aging shall request that the superintendent conduct the~~ 9206  
~~criminal records check~~ the responsible entity is not required to 9207  
request the criminal records check of the applicant or employee if 9208  
the office is prohibited by division (B)(1) of this section from 9209  
employing the applicant or continuing to employ the employee in a 9210  
position that involves providing ombudsperson services to 9211  
residents and recipients. If an applicant or employee for whom a 9212  
criminal records check request is required ~~under~~ by this ~~division~~ 9213  
section does not present proof of having been a resident of this 9214  
state for the five-year period immediately prior to the date the 9215  
criminal records check is requested or provide evidence that 9216  
within that five-year period the superintendent has requested 9217  
information about the applicant or employee from the federal 9218  
bureau of investigation in a criminal records check, the 9219  
~~ombudsperson, designee, or director~~ responsible entity shall 9220  
request that the superintendent obtain information from the 9221  
federal bureau of investigation as part of the criminal records 9222  
check ~~of the applicant~~. Even if an applicant or employee for whom 9223  
a criminal records check request is required ~~under~~ by this 9224  
~~division~~ section presents proof of having been a resident of this 9225  
state for the five-year period, the ~~ombudsperson, designee, or~~ 9226  
~~director~~ responsible entity may request that the superintendent 9227  
include information from the federal bureau of investigation in 9228  
the criminal records check. 9229

(2) ~~A person required by division (B)(1) of this section to~~ 9230  
~~request a criminal records check~~ The responsible entity shall do 9231

~~both~~ all of the following: 9232

(a) Provide to each applicant and employee for whom a 9233  
criminal records check request is required ~~under that division by~~ 9234  
this section a copy of the form prescribed pursuant to division 9235  
(C)(1) of section 109.572 of the Revised Code and a standard 9236  
~~fingerprint~~ impression sheet prescribed pursuant to division 9237  
(C)(2) of that section, ~~and obtain;~~ 9238

(b) Obtain the completed form and standard impression sheet 9239  
from the applicant or employee; 9240

~~(b)(c)~~ (c) Forward the completed form and standard impression 9241  
sheet to the superintendent ~~of the bureau of criminal~~ 9242  
~~identification and investigation.~~ 9243

(3) ~~An applicant provided the form and fingerprint impression~~ 9244  
~~sheet under division (B)(2)(a) of this section who fails to~~ 9245  
~~complete the form or provide fingerprint impressions shall not be~~ 9246  
~~employed in any position for which a criminal records check is~~ 9247  
~~required by this section.~~ 9248

~~(C)(1) Except as provided in rules adopted by the director of~~ 9249  
~~aging in accordance with division (F) of this section and subject~~ 9250  
~~to division (C)(2) of this section, the office of the state~~ 9251  
~~long term care ombudsperson may not employ a person in a position~~ 9252  
~~that involves providing ombudsperson services to residents and~~ 9253  
~~recipients if the person has been convicted of or pleaded guilty~~ 9254  
~~to any of the following:~~ 9255

~~(a) A violation of section 2903.01, 2903.02, 2903.03,~~ 9256  
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 9257  
~~2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05,~~ 9258  
~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31,~~ 9259  
~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11,~~ 9260  
~~2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21,~~ 9261  
~~2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36,~~ 9262

~~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.~~ 9263  
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~~(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.~~ 9265  
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(2)(a) The office of the state long-term care ombudsperson program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the responsible entity requests under this section. The office may charge an applicant a fee not exceeding the amount the office pays to the bureau under this section if the responsible entity notifies the applicant at the time of initial application for employment of the amount of the fee. 9269  
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(F)(1) The office of the state long-term care ombudsperson program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of by this section prior to obtaining the results of a the criminal records check regarding the individual, provided that the state long term care ombudsperson, ombudsperson's designee, or director of aging shall request a if the office is not prohibited by division (B)(1) of this section from employing the applicant in a position that involves providing ombudsperson services to residents and recipients and the responsible entity requests the criminal records check regarding the individual in accordance with division (B)(1)(E) of this section not later than five business days after the individual applicant begins conditional employment. 9278  
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~~(b)(2) The office of the state long-term care ombudsperson program shall terminate the employment of an individual applicant employed conditionally under division (C)(2)(a)(F)(1) of this section if the results of the criminal records check request under~~ 9291  
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~~division (B) of this section, other than the results of any~~ 9295  
~~request for information from the federal bureau of investigation,~~ 9296  
~~are not obtained within the period ending sixty days after the~~ 9297  
~~date the request for the criminal records check is made.~~ 9298  
Regardless of when the results of the criminal records check are 9299  
obtained, if the results indicate that the ~~individual~~ applicant 9300  
has been convicted of ~~or~~, pleaded guilty to ~~any of the offenses~~ 9301  
~~listed or described in division (C)(1) of this section, or been~~ 9302  
~~found eligible for intervention in lieu of conviction for a~~ 9303  
~~disqualifying offense~~, the office shall terminate the ~~individual's~~ 9304  
~~applicant's~~ employment unless circumstances specified in rules 9305  
adopted under this section that permit the office to employ the 9306  
applicant exist and the office chooses to employ the ~~individual~~ 9307  
~~pursuant to division (F) of this section~~ applicant. Termination of 9308  
employment under this division shall be considered just cause for 9309  
discharge for purposes of division (D)(2) of section 4141.29 of 9310  
the Revised Code if the ~~individual~~ applicant makes any attempt to 9311  
deceive the office about the ~~individual's~~ applicant's criminal 9312  
record. 9313

~~(D)(1) The office of the state long term care ombudsperson~~ 9314  
~~program shall pay to the bureau of criminal identification and~~ 9315  
~~investigation the fee prescribed pursuant to division (C)(3) of~~ 9316  
~~section 109.572 of the Revised Code for each criminal records~~ 9317  
~~check conducted pursuant to a request made under division (B) of~~ 9318  
~~this section.~~ 9319

~~(2) The office of the state long term care ombudsperson~~ 9320  
~~program may charge an applicant a fee not exceeding the amount the~~ 9321  
~~office pays under division (D)(1) of this section. The office may~~ 9322  
~~collect a fee only if the office notifies the applicant at the~~ 9323  
~~time of initial application for employment of the amount of the~~ 9324  
~~fee.~~ 9325

~~(E)(G)~~ The report of any criminal records check conducted 9326

pursuant to a request made under this section is not a public 9327  
record for the purposes of section 149.43 of the Revised Code and 9328  
shall not be made available to any person other than the 9329  
following: 9330

(1) The ~~individual~~ applicant or employee who is the subject 9331  
of the criminal records check or the ~~individual's~~ applicant's or  
employee's representative; 9332  
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(2) The ~~state long term care ombudsperson, ombudsperson's~~ 9334  
~~designee, director of aging,~~ responsible entity or the 9335  
~~ombudsperson, designee, or director's~~ responsible entity's  
representative; 9336  
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(3) If the state long-term care ombudsperson designates the 9338  
head or other employee of a regional long-term care ombudsperson 9339  
program to request a criminal records check under this section, a 9340  
representative of the office of the state long-term care 9341  
ombudsperson program who is responsible for monitoring the 9342  
regional program's compliance with this section; 9343

(4) A court, hearing officer, or other necessary individual 9344  
involved in a case dealing with a any of the following: 9345

(a) A denial of employment of the applicant or ~~dealing with~~ 9346  
~~employment~~ employee; 9347

(b) Employment or unemployment benefits of the applicant or 9348  
employee; 9349

(c) A civil or criminal action regarding the medicaid program 9350  
or a program the department of aging administers. 9351

~~(F) The director of aging shall adopt rules in accordance~~ 9352  
~~with Chapter 119. of the Revised Code to implement this section.~~ 9353  
~~The rules shall specify circumstances under which the office of~~ 9354  
~~the state long term care ombudsperson program may employ a person~~ 9355  
~~who has been convicted of or pleaded guilty to an offense listed~~ 9356

~~or described in division (C)(1) of this section but meets personal character standards set by the director.~~ 9357  
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~~(G) The office of the state long term care ombudsperson program shall inform each person, at the time of initial application for a position that involves providing ombudsperson services to residents and recipients, 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.~~ 9359  
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(H) 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 the office of the state long-term care ombudsperson program employs in a position that involves providing ombudsperson services to residents and recipients, all of the following shall apply: 9366  
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(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. 9372  
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(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. 9378  
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(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 9384  
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~~the individual prior to being employed had applicant or employee~~ 9388  
~~has been convicted of or, pleaded guilty to an offense listed or~~ 9389  
~~described in division (C)(1) of this section, or been found~~ 9390  
eligible for intervention in lieu of conviction for a 9391  
disqualifying offense. 9392

(I) The director of aging shall adopt rules in accordance 9393  
with Chapter 119. of the Revised Code to implement this section. 9394

(1) The rules may do the following: 9395

(a) Require employees to undergo database reviews and 9396  
criminal records checks under this section; 9397

(b) If the rules require employees to undergo database 9398  
reviews and criminal records checks under this section, exempt one 9399  
or more classes of employees from the requirements; 9400

(c) For the purpose of division (D)(7) of this section, 9401  
specify other databases that are to be checked as part of a 9402  
database review conducted under this section. 9403

(2) The rules shall specify all of the following: 9404

(a) The procedures for conducting database reviews under this 9405  
section; 9406

(b) If the rules require employees to undergo database 9407  
reviews and criminal records checks under this section, the times 9408  
at which the database reviews and criminal records checks are to 9409  
be conducted; 9410

(c) If the rules specify other databases to be checked as 9411  
part of the database reviews, the circumstances under which the 9412  
office of the state long-term care ombudsperson program is 9413  
prohibited from employing an applicant or continuing to employ an 9414  
employee who is found by a database review to be included in one 9415  
or more of those databases; 9416

(d) Circumstances under which the office of the state 9417

long-term care ombudsperson program may employ an applicant or 9418  
employee who is found by a criminal records check required by this 9419  
section to have been convicted of, pleaded guilty to, or been 9420  
found eligible for intervention in lieu of conviction for a 9421  
disqualifying offense but meets personal character standards. 9422

**Sec. 173.391.** (A) The department of aging or its designee 9423  
shall do all of the following in accordance with Chapter 119. of 9424  
the Revised Code: 9425

(1) Certify a person or government entity to provide 9426  
community-based long-term care services under a program the 9427  
department administers if the person or government entity 9428  
satisfies the requirements for certification established by rules 9429  
adopted under division (B) of this section and pays the fee, if 9430  
any, established by rules adopted under division (G) of this 9431  
section; 9432

(2) When required to do so by rules adopted under division 9433  
(B) of this section, take one or more of the following 9434  
disciplinary actions against a person or government entity 9435  
certified under division (A)(1) of this section: 9436

(a) Issue a written warning; 9437

(b) Require the submission of a plan of correction or 9438  
evidence of compliance with requirements identified by the 9439  
department; 9440

(c) Suspend referrals; 9441

(d) Remove clients; 9442

(e) Impose a fiscal sanction such as a civil monetary penalty 9443  
or an order that unearned funds be repaid; 9444

(f) Suspend the certification; 9445

(g) Revoke the certification; 9446

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| (h) Impose another sanction.   | 9447   |
| (3) Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes regarding a decision not to certify the person or government entity under division (A)(1) of this section or a disciplinary action under <del>division</del> <u>divisions</u> (A)(2)(e) to (h) of this section. | 9448<br>9449<br>9450<br>9451<br>9452<br>9453<br>9454 |
| (B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following:   | 9455<br>9456<br>9457<br>9458<br>9459<br>9460         |
| (1) Ensuring that community-based long-term care agencies comply with section 173.394 of the Revised Code;   | 9461<br>9462   |
| (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;   | 9463<br>9464<br>9465                                 |
| (3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take;  | 9466<br>9467<br>9468                                 |
| (4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section.  | 9469<br>9470   |
| (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:   | 9471<br>9472<br>9473<br>9474                         |
| (1) The community-based long-term care agency's experience and financial responsibility;   | 9475<br>9476   |

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| (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;  | 9477<br>9478<br>9479                                 |
| (3) The agency's ability to meet the needs of the individuals served;   | 9480<br>9481   |
| (4) Any other factor the director considers relevant.   | 9482   |
| (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. | 9483<br>9484<br>9485<br>9486<br>9487<br>9488<br>9489 |
| (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:  | 9490<br>9491<br>9492                                 |
| (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:                                     | 9493<br>9494<br>9495<br>9496<br>9497<br>9498         |
| (a) The provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained.   | 9499<br>9500<br>9501                                 |
| (b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted.  | 9502<br>9503<br>9504                                 |
| (2) The agency's certification under this section has been denied, suspended, or revoked for any of the following reasons:  | 9505<br>9506   |

(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 ~~department~~ director in rules adopted under ~~division (F) of that~~ section 173.394 of the Revised Code apply.

(d) The United States department of health and human services has taken adverse action against the agency and that action impacts the agency's participation in the medicaid program.

(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the agency is certified to provide services.

(f) The agency has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years.

(g) The agency denied or failed to provide the department or its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review.

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(h) The agency has ceased doing business.

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(i) The agency has voluntarily relinquished its certification for any reason.

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(3) The agency's provider agreement with the department of job and family services has been suspended under division (C) of section 5111.031 of the Revised Code.

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(4) The agency's provider agreement with the department of job and family services is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5111.031 of the Revised Code.

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(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the agency describing a decision not to certify the agency under division (A)(1) of this section or the disciplinary action the department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the agency's address that is on record with the department and may be sent by regular mail.

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(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under this section.

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All fees collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby

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created. Money credited to the fund shall be used to pay for 9569  
community-based long-term care services, administrative costs 9570  
associated with community-based long-term care agency 9571  
certification under this section, and administrative costs related 9572  
to the publication of the Ohio long-term care consumer guide. 9573

**Sec. 173.394.** (A) As used in this section: 9574

(1) "Applicant" means a person who is under final 9575  
consideration for employment with a community-based long-term care 9576  
agency in a full-time, part-time, or temporary position that 9577  
involves providing direct care to an individual or is referred to 9578  
a community-based long-term care agency by an employment service 9579  
for such a position. "Applicant" does not include a person who 9580  
provides direct care to an individual as a volunteer without 9581  
receiving or expecting to receive any form of remuneration other 9582  
than reimbursement for actual expenses. 9583

(2) "Criminal records check" has the same meaning as in 9584  
section 109.572 of the Revised Code. 9585

(3) "Disqualifying offense" means any of the following: 9586

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 9587  
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 9588  
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 9589  
2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 9590  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 9591  
2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 9592  
2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 9593  
2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 9594  
2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 9595  
2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 9596  
2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 9597  
2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 9598  
2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 9599

2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 9600  
2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 9601  
2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 9602  
2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 9603  
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 9604

(b) Felonious sexual penetration in violation of former 9605  
section 2907.12 of the Revised Code; 9606

(c) A violation of section 2905.04 of the Revised Code as it 9607  
existed prior to July 1, 1996; 9608

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 9609  
the Revised Code when the underlying offense that is the object of 9610  
the conspiracy, attempt, or complicity is one of the offenses 9611  
listed in divisions (A)(3)(a) to (c) of this section; 9612

(e) A violation of an existing or former municipal ordinance 9613  
or law of this state, any other state, or the United States that 9614  
is substantially equivalent to any of the offenses listed in 9615  
divisions (A)(3)(a) to (d) of this section. 9616

(4) "Employee" means a person employed by a community-based 9617  
long-term care agency in a full-time, part-time, or temporary 9618  
position that involves providing direct care to an individual and 9619  
a person who works in such a position due to being referred to a 9620  
community-based long-term care agency by an employment service. 9621  
"Employee" does not include a person who provides direct care to 9622  
an individual as a volunteer without receiving or expecting to 9623  
receive any form of remuneration other than reimbursement for 9624  
actual expenses. 9625

(B) No community-based long-term care agency shall employ an 9626  
applicant or continue to employ an employee in a position that 9627  
involves providing direct care to an individual if any of the 9628  
following apply: 9629

(1) A review of the databases listed in division (D) of this 9630

section reveals any of the following: 9631

(a) That the applicant or employee is included in one or more 9632  
of the databases listed in divisions (D)(1) to (5) of this 9633  
section; 9634

(b) That there is in the state nurse aide registry 9635  
established under section 3721.32 of the Revised Code a statement 9636  
detailing findings by the director of health that the applicant or 9637  
employee neglected or abused a long-term care facility or 9638  
residential care facility resident or misappropriated property of 9639  
such a resident; 9640

(c) That the applicant or employee is included in one or more 9641  
of the databases, if any, specified in rules adopted under this 9642  
section and the rules prohibit the agency from employing an 9643  
applicant or continuing to employ an employee included in such a 9644  
database in a position that involves providing direct care to an 9645  
individual. 9646

(2) After the applicant or employee is provided, pursuant to 9647  
division (E)(2)(a) of this section, a copy of the form prescribed 9648  
pursuant to division (C)(1) of section 109.572 of the Revised Code 9649  
and the standard impression sheet prescribed pursuant to division 9650  
(C)(2) of that section, the applicant or employee fails to 9651  
complete the form or provide the applicant's or employee's 9652  
fingerprint impressions on the standard impression sheet. 9653

(3) Except as provided in rules adopted under this section, 9654  
the applicant or employee is found by a criminal records check 9655  
required by this section to have been convicted of, pleaded guilty 9656  
to, or been found eligible for intervention in lieu of conviction 9657  
for a disqualifying offense. 9658

(C) Except as provided by division (F) of this section, the 9659  
chief administrator of a community-based long-term care agency 9660  
shall inform each applicant of both of the following at the time 9661

of the applicant's initial application for employment or referral 9662  
to the agency by an employment service for a position that 9663  
involves providing direct care to an individual: 9664

(1) That a review of the databases listed in division (D) of 9665  
this section will be conducted to determine whether the agency is 9666  
prohibited by division (B)(1) of this section from employing the 9667  
applicant in the position; 9668

(2) That, unless the database review reveals that the 9669  
applicant may not be employed in the position, a criminal records 9670  
check of the applicant will be conducted and the applicant is 9671  
required to provide a set of the applicant's fingerprint 9672  
impressions as part of the criminal records check. 9673

(D) As a condition of employing any applicant in a position 9674  
that involves providing direct care to an individual, the chief 9675  
administrator of a community-based long-term care agency shall 9676  
conduct a database review of the applicant in accordance with 9677  
rules adopted under this section. If rules adopted under this 9678  
section so require, the chief administrator of a community-based 9679  
long-term care agency shall conduct a database review of an 9680  
employee in accordance with the rules as a condition of continuing 9681  
to employ the employee in a position that involves providing 9682  
direct care to an individual. However, a chief administrator is 9683  
not required to conduct a database review of an applicant or 9684  
employee if division (F) of this section applies. A database 9685  
review shall determine whether the applicant or employee is 9686  
included in any of the following: 9687

(1) The excluded parties list system maintained by the United 9688  
States general services administration pursuant to subpart 9.4 of 9689  
the federal acquisition regulation; 9690

(2) The list of excluded individuals and entities maintained 9691  
by the office of inspector general in the United States department 9692

of health and human services pursuant to section 1128 of the 9693  
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 9694  
amended, and section 1156 of the "Social Security Act," 96 Stat. 9695  
388 (1982), 42 U.S.C. 1320c-5, as amended; 9696

(3) The registry of MR/DD employees established under section 9697  
5123.52 of the Revised Code; 9698

(4) The internet-based sex offender and child-victim offender 9699  
database established under division (A)(11) of section 2950.13 of 9700  
the Revised Code; 9701

(5) The internet-based database of inmates established under 9702  
section 5120.66 of the Revised Code; 9703

(6) The state nurse aide registry established under section 9704  
3721.32 of the Revised Code; 9705

(7) Any other database, if any, specified in rules adopted 9706  
under this section. 9707

(E)(1) Except as provided in division (I) of this section As 9708  
a condition of employing any applicant in a position that involves 9709  
providing direct care to an individual, the chief administrator of 9710  
a community-based long-term care agency shall request that the 9711  
superintendent of the bureau of criminal identification and 9712  
investigation conduct a criminal records check with respect to 9713  
each of the applicant. If rules adopted under this section so 9714  
require, the chief administrator of a community-based long-term 9715  
care agency shall request that the superintendent conduct a 9716  
criminal records check of an employee at times specified in the 9717  
rules as a condition of continuing to employ the employee in a 9718  
position that involves providing direct care to an individual. 9719  
However, the chief administrator is not required to request the 9720  
criminal records check of the applicant or employee if division 9721  
(F) of this section applies or the agency is prohibited by 9722  
division (B)(1) of this section from employing the applicant or 9723

continuing to employ the employee in a position that involves 9724  
providing direct care to an individual. If an applicant or 9725  
employee for whom a criminal records check request is required 9726  
under by this ~~division~~ section does not present proof of having 9727  
been a resident of this state for the five-year period immediately 9728  
prior to the date the criminal records check is requested or 9729  
provide evidence that within that five-year period the 9730  
superintendent has requested information about the applicant or 9731  
employee from the federal bureau of investigation in a criminal 9732  
records check, the chief administrator shall request that the 9733  
superintendent obtain information from the federal bureau of 9734  
investigation as part of the criminal records check ~~of the~~ 9735  
~~applicant~~. Even if an applicant or employee for whom a criminal 9736  
records check request is required under by this ~~division~~ section 9737  
presents proof of having been a resident of this state for the 9738  
five-year period, the chief administrator may request that the 9739  
superintendent include information from the federal bureau of 9740  
investigation in the criminal records check. 9741

(2) ~~A person required by division (B)(1) of this section to~~ 9742  
~~request a criminal records check~~ The chief administrator shall do 9743  
~~both~~ all of the following: 9744

(a) Provide to each applicant and employee for whom a 9745  
criminal records check request is required ~~under that division~~ by 9746  
this section a copy of the form prescribed pursuant to division 9747  
(C)(1) of section 109.572 of the Revised Code and a standard 9748  
~~fingerprint~~ impression sheet prescribed pursuant to division 9749  
(C)(2) of that section, ~~and obtain;~~ 9750

(b) Obtain the completed form and standard impression sheet 9751  
from the applicant or employee; 9752

~~(b)(c)~~ (c) Forward the completed form and standard impression 9753  
sheet to the superintendent ~~of the bureau of criminal~~ 9754  
~~identification and investigation.~~ 9755

~~(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 department of aging in accordance with division (F) of this section and subject to division (C)(2) of this section, no community based long term care agency shall employ a person in a position that involves providing direct care to an individual if the person has been convicted of or pleaded guilty to any of the following:~~

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

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

(2)(a) A community-based long-term care agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency requests under this section. An agency may charge an applicant a fee not exceeding the amount the agency pays to the bureau under this section if both of the following apply:

(a) The agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment. 9787  
9788  
9789  
9790

(b) The medicaid program established under Chapter 5111. of the Revised Code does not reimburse the agency for the fee it pays to the bureau under this section. 9791  
9792  
9793

(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 community-based long-term 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: 9794  
9795  
9796  
9797  
9798  
9799

(1) The chief administrator of the agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted of the applicant or employee. 9800  
9801  
9802  
9803

(2) The chief administrator of the 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: 9804  
9805  
9806  
9807  
9808

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the agency; 9809  
9810

(b) In the case of an employee, the date by which the agency would otherwise have to request a criminal records check of the employee under division (E) of this section. 9811  
9812  
9813

(G)(1) A community-based long-term care agency may employ conditionally an applicant for whom a criminal records check request is required ~~under division (B) of~~ by this section prior to obtaining the results of a the criminal records check ~~regarding~~ 9814  
9815  
9816  
9817

~~the individual, provided that if the agency is not prohibited by~~ 9818  
~~division (B)(1) of this section from employing the applicant in a~~ 9819  
~~position that involves providing direct care to an individual and~~ 9820  
~~either of the following applies:~~ 9821

~~(a) The chief administrator of the agency shall request a~~ 9822  
~~requests the criminal records check regarding the individual in~~ 9823  
~~accordance with division (B)(1)(E) of this section not later than~~ 9824  
~~five business days after the individual applicant begins~~ 9825  
~~conditional employment.~~ 9826

~~(b) The applicant is referred to the agency by an employment~~ 9827  
~~service, the employment service or the applicant provides the~~ 9828  
~~chief administrator of the agency a letter that is on the~~ 9829  
~~letterhead of the employment service, the letter is dated and~~ 9830  
~~signed by a supervisor or another designated official of the~~ 9831  
~~employment service, and the letter states all of the following:~~ 9832

~~(i) That the employment service has requested the~~ 9833  
~~superintendent to conduct a criminal records check regarding the~~ 9834  
~~applicant;~~ 9835

~~(ii) That the requested criminal records check is to include~~ 9836  
~~a determination of whether the applicant has been convicted of,~~ 9837  
~~pleaded guilty to, or been found eligible for intervention in lieu~~ 9838  
~~of conviction for a disqualifying offense;~~ 9839

~~(iii) That the employment service has not received the~~ 9840  
~~results of the criminal records check as of the date set forth on~~ 9841  
~~the letter;~~ 9842

~~(iv) That the employment service promptly will send a copy of~~ 9843  
~~the results of the criminal records check to the chief~~ 9844  
~~administrator of the agency when the employment service receives~~ 9845  
~~the results. In the circumstances described in division (I)(2) of~~ 9846  
~~this section, a community-based long-term care agency may employ~~ 9847  
~~conditionally an applicant who has been referred to the agency by~~ 9848

~~an employment service that supplies full time, part time, or 9849  
temporary staff for positions involving the direct care of 9850  
individuals and for whom, pursuant to that division, a criminal 9851  
records check is not required under division (B) of this section. 9852~~

~~(b)(2) If a community-based long-term care agency employs an 9853  
applicant conditionally pursuant to division (G)(1)(b) of this 9854  
section, the employment service, on its receipt of the results of 9855  
the criminal records check, promptly shall send a copy of the 9856  
results to the chief administrator of the agency. 9857~~

~~(3) A community-based long-term care agency that employs an 9858  
individual applicant conditionally under authority of pursuant to 9859  
division (C)(2)(a)(G)(1)(a) or (b) of this section shall terminate 9860  
the individual's applicant's employment if the results of the 9861  
criminal records check request under division (B) of this section 9862  
or described in division (I)(2) of this section, other than the 9863  
results of any request for information from the federal bureau of 9864  
investigation, are not obtained within the period ending sixty 9865  
days after the date the request for the criminal records check is 9866  
made. Regardless of when the results of the criminal records check 9867  
are obtained, if the results indicate that the individual 9868  
applicant has been convicted of ~~or~~, pleaded guilty to any of the 9869  
offenses listed or described in division (C)(1) of this section, 9870  
or been found eligible for intervention in lieu of conviction for 9871  
a disqualifying offense, the agency shall terminate the 9872  
individual's applicant's employment unless circumstances specified 9873  
in rules adopted under this section that permit the agency to 9874  
employ the applicant exist and the agency chooses to employ the 9875  
individual pursuant to division (F) of this section applicant. 9876  
Termination of employment under this division shall be considered 9877  
just cause for discharge for purposes of division (D)(2) of 9878  
section 4141.29 of the Revised Code if the individual applicant 9879  
makes any attempt to deceive the agency about the individual's 9880~~

applicant's criminal record. 9881

~~(D)(1) Each community based long term care agency shall pay 9882  
to the bureau of criminal identification and investigation the fee 9883  
prescribed pursuant to division (C)(3) of section 109.572 of the 9884  
Revised Code for each criminal records check conducted pursuant to 9885  
a request made under division (B) of this section. 9886~~

~~(2) A community based long term care agency may charge an 9887  
applicant a fee not exceeding the amount the agency pays under 9888  
division (D)(1) of this section. An agency may collect a fee only 9889  
if both of the following apply: 9890~~

~~(a) The agency notifies the person at the time of initial 9891  
application for employment of the amount of the fee and that, 9892  
unless the fee is paid, the person will not be considered for 9893  
employment; 9894~~

~~(b) The medicaid program established under Chapter 5111. of 9895  
the Revised Code does not reimburse the agency the fee it pays 9896  
under division (D)(1) of this section. 9897~~

~~(E)(H) The report of any criminal records check conducted 9898  
pursuant to a request made under this section is not a public 9899  
record for the purposes of section 149.43 of the Revised Code and 9900  
shall not be made available to any person other than the 9901  
following: 9902~~

~~(1) The individual applicant or employee who is the subject 9903  
of the criminal records check or the individual's applicant's or 9904  
employee's representative; 9905~~

~~(2) The chief administrator of the community-based long-term 9906  
care agency requesting the criminal records check or the 9907  
administrator's representative; 9908~~

~~(3) The administrator of any other facility, agency, or 9909  
program that provides direct care to individuals that is owned or 9910~~

operated by the same entity that owns or operates the 9911  
community-based long-term care agency that requested the criminal 9912  
records check; 9913

(4) The employment service that requested the criminal 9914  
records check; 9915

(5) The director of aging or a person authorized by the 9916  
director to monitor a community-based long-term care agency's 9917  
compliance with this section; 9918

~~(5)~~(6) A court, hearing officer, or other necessary 9919  
individual involved in a case dealing with a any of the following: 9920

(a) A denial of employment of the applicant or dealing with 9921  
employment employee; 9922

(b) Employment or unemployment benefits of the applicant or 9923  
employee; 9924

~~(6) Any person to whom the report is provided pursuant to,~~ 9925  
~~and in accordance with, division (I)(1) or (2) of this section (c)~~ 9926  
A civil or criminal action regarding the medicaid program or a 9927  
program the department of aging administers. 9928

~~(F) The department of aging shall adopt rules in accordance~~ 9929  
~~with Chapter 119. of the Revised Code to implement this section.~~ 9930  
~~The rules shall specify circumstances under which a~~ 9931  
~~community based long term care agency may employ a person who has~~ 9932  
~~been convicted of or pleaded guilty to an offense listed or~~ 9933  
~~described in division (C)(1) of this section but meets personal~~ 9934  
~~character standards set by the department.~~ 9935

~~(G) The chief administrator of a community based long term~~ 9936  
~~care agency shall inform each person, at the time of initial~~ 9937  
~~application for a position that involves providing direct care to~~ 9938  
~~an individual, that the person is required to provide a set of~~ 9939  
~~fingerprint impressions and that a criminal records check is~~ 9940

~~required to be conducted if the person comes under final  
consideration for employment.~~ 9941  
9942

~~(H)~~(I) In a tort or other civil action for damages that is 9943  
brought as the result of an injury, death, or loss to person or 9944  
property caused by an ~~individual~~ applicant or employee who a 9945  
community-based long-term care agency employs in a position that 9946  
involves providing direct care to individuals, all of the 9947  
following shall apply: 9948

(1) If the agency employed the ~~individual~~ applicant or 9949  
employee in good faith and reasonable reliance on the report of a 9950  
criminal records check requested under this section, the agency 9951  
shall not be found negligent solely because of its reliance on the 9952  
report, even if the information in the report is determined later 9953  
to have been incomplete or inaccurate~~+~~. 9954

(2) If the agency employed the ~~individual~~ applicant in good 9955  
faith on a conditional basis pursuant to division ~~(C)(2)~~(G) of 9956  
this section, the agency shall not be found negligent solely 9957  
because it employed the ~~individual~~ applicant prior to receiving 9958  
the report of a criminal records check requested under this 9959  
section~~+~~. 9960

(3) If the agency in good faith employed the ~~individual~~ 9961  
applicant or employee according to the personal character 9962  
standards established in rules adopted under ~~division (F)~~ of this 9963  
section, the agency shall not be found negligent solely because 9964  
the ~~individual prior to being employed had~~ applicant or employee 9965  
has been convicted of or, pleaded guilty to ~~an offense listed or~~ 9966  
~~described in division (C)(1) of this section,~~ or been found 9967  
eligible for intervention in lieu of conviction for a 9968  
disqualifying offense. 9969

~~(I)(1) The chief administrator of a community-based long-term 9970  
care agency is not required to request that the superintendent of 9971~~

~~the bureau of criminal identification and investigation conduct a 9972  
criminal records check of an applicant if the applicant has been 9973  
referred to the agency by an employment service that supplies 9974  
full time, part time, or temporary staff for positions involving 9975  
the direct care of individuals and both of the following apply: 9976~~

~~(a) The chief administrator receives from the employment 9977  
service or the applicant a report of the results of a criminal 9978  
records check regarding the applicant that has been conducted by 9979  
the superintendent within the one year period immediately 9980  
preceding the applicant's referral; 9981~~

~~(b) The report of the criminal records check demonstrates 9982  
that the person has not been convicted of or pleaded guilty to an 9983  
offense listed or described in division (C)(1) of this section, or 9984  
the report demonstrates that the person has been convicted of or 9985  
pleaded guilty to one or more of those offenses, but the 9986  
community based long term care agency chooses to employ the 9987  
individual pursuant to division (F) of this section. 9988~~

~~(2) The chief administrator of a community based long term 9989  
care agency is not required to request that the superintendent of 9990  
the bureau of criminal identification and investigation conduct a 9991  
criminal records check of an applicant and may employ the 9992  
applicant conditionally as described in this division, if the 9993  
applicant has been referred to the agency by an employment service 9994  
that supplies full time, part time, or temporary staff for 9995  
positions involving the direct care of individuals and if the 9996  
chief administrator receives from the employment service or the 9997  
applicant a letter from the employment service that is on the 9998  
letterhead of the employment service, dated, and signed by a 9999  
supervisor or another designated official of the employment 10000  
service and that states that the employment service has requested 10001  
the superintendent to conduct a criminal records check regarding 10002  
the applicant, that the requested criminal records check will 10003~~

~~include a determination of whether the applicant has been 10004  
convicted of or pleaded guilty to any offense listed or described 10005  
in division (C)(1) of this section, that, as of the date set forth 10006  
on the letter, the employment service had not received the results 10007  
of the criminal records check, and that, when the employment 10008  
service receives the results of the criminal records check, it 10009  
promptly will send a copy of the results to the community based 10010  
long term care agency. If a community based long term care agency 10011  
employs an applicant conditionally in accordance with this 10012  
division, the employment service, upon its receipt of the results 10013  
of the criminal records check, promptly shall send a copy of the 10014  
results to the community based long term care agency, and division 10015  
(C)(2)(b) of this section applies regarding the conditional 10016  
employment. 10017~~

(J) The director of aging shall adopt rules in accordance 10018  
with Chapter 119. of the Revised Code to implement this section. 10019

(1) The rules may do the following: 10020

(a) Require employees to undergo database reviews and 10021  
criminal records checks under this section; 10022

(b) If the rules require employees to undergo database 10023  
reviews and criminal records checks under this section, exempt one 10024  
or more classes of employees from the requirements; 10025

(c) For the purpose of division (D)(7) of this section, 10026  
specify other databases that are to be checked as part of a 10027  
database review conducted under this section. 10028

(2) The rules shall specify all of the following: 10029

(a) The procedures for conducting database reviews under this 10030  
section; 10031

(b) If the rules require employees to undergo database 10032  
reviews and criminal records checks under this section, the times 10033

at which the database reviews and criminal records checks are to 10034  
be conducted; 10035

(c) If the rules specify other databases to be checked as 10036  
part of the database reviews, the circumstances under which a 10037  
community-based long-term care agency is prohibited from employing 10038  
an applicant or continuing to employ an employee who is found by a 10039  
database review to be included in one or more of those databases; 10040

(d) Circumstances under which a community-based long-term 10041  
care agency may employ an applicant or employee who is found by a 10042  
criminal records check required by this section to have been 10043  
convicted of, pleaded guilty to, or been found eligible for 10044  
intervention in lieu of conviction for a disqualifying offense but 10045  
meets personal character standards. 10046

**Sec. 173.40.** (A) As used in sections 173.40 to 173.402 of the 10047  
Revised Code: 10048

"Medicaid waiver component" has the same meaning as in 10049  
section 5111.85 of the Revised Code. 10050

"PASSPORT program" means the program created under this 10051  
section. 10052

"PASSPORT waiver" means the federal medicaid waiver granted 10053  
by the United States secretary of health and human services that 10054  
authorizes the medicaid-funded component of the PASSPORT program. 10055

"Unified long-term services and support medicaid waiver 10056  
component" means the medicaid waiver component authorized by 10057  
section 5111.864 of the Revised Code. 10058

(B) There is hereby created the preadmission screening system 10059  
providing options and resources today program, or PASSPORT. The 10060  
PASSPORT program shall provide home and community-based services 10061  
as an alternative to nursing facility placement for individuals 10062  
who are aged and disabled and meet the program's applicable 10063

eligibility requirements. Subject to division (C) of this section, 10064  
the program shall have a medicaid-funded component and a 10065  
state-funded component. 10066

(C)(1) Unless the medicaid-funded component of the PASSPORT 10067  
program is terminated under division (C)(2) of this section, all 10068  
of the following apply: 10069

(a) The department of aging shall administer the 10070  
medicaid-funded component through a contract entered into with the 10071  
department of job and family services under section 5111.91 of the 10072  
Revised Code. 10073

(b) The medicaid-funded component shall be operated as a 10074  
separate medicaid waiver component. 10075

(c) For an individual to be eligible for the medicaid-funded 10076  
component, the individual must be a medicaid recipient and meet 10077  
the additional eligibility requirements applicable to the 10078  
individual established in rules adopted under division (C)(1)(d) 10079  
of this section. 10080

(d) The director of job and family services shall adopt rules 10081  
under section 5111.85 of the Revised Code and the director of 10082  
aging shall adopt rules in accordance with Chapter 119. of the 10083  
Revised Code to implement the medicaid-funded component. 10084

(2) If the unified long-term services and support medicaid 10085  
waiver component is created, the departments of aging and job and 10086  
family services shall work together to determine whether the 10087  
medicaid-funded component of the PASSPORT program should continue 10088  
to operate as a separate medicaid waiver component or be 10089  
terminated. If the departments determine that the medicaid-funded 10090  
component of the PASSPORT program should be terminated, the 10091  
medicaid-funded component shall cease to exist on a date the 10092  
departments shall specify. 10093

(D)(1) The department of aging shall administer the 10094

state-funded component of the PASSPORT program. The state-funded 10095  
component shall not be administered as part of the medicaid 10096  
program. 10097

(2) For an individual to be eligible for the state-funded 10098  
component, the individual must meet one of the following 10099  
requirements and meet the additional eligibility requirements 10100  
applicable to the individual established in rules adopted under 10101  
division (D)(4) of this section: 10102

(a) The individual must have been enrolled in the 10103  
state-funded component on September 1, 1991, (as the state-funded 10104  
component was authorized by uncodified law in effect at that time) 10105  
and have had one or more applications for enrollment in the 10106  
medicaid-funded component (or, if the medicaid-funded component is 10107  
terminated under division (C)(2) of this section, the unified 10108  
long-term services and support medicaid waiver component) denied. 10109

(b) The individual must have had the individual's enrollment 10110  
in the medicaid-funded component (or, if the medicaid-funded 10111  
component is terminated under division (C)(2) of this section, the 10112  
unified long-term services and support medicaid waiver component) 10113  
terminated and the individual must still need the home and 10114  
community-based services provided under the PASSPORT program to 10115  
protect the individual's health and safety. 10116

(c) The individual must have an application for the 10117  
medicaid-funded component (or, if the medicaid-funded component is 10118  
terminated under division (C)(2) of this section, the unified 10119  
long-term services and support medicaid waiver component) pending 10120  
and the department or the department's designee must have 10121  
determined that the individual meets the nonfinancial eligibility 10122  
requirements of the medicaid-funded component (or, if the 10123  
medicaid-funded component is terminated under division (C)(2) of 10124  
this section, the unified long-term services and support medicaid 10125  
waiver component) and not have reason to doubt that the individual 10126

meets the financial eligibility requirements of the 10127  
medicaid-funded component (or, if the medicaid-funded component is 10128  
terminated under division (C)(2) of this section, the unified 10129  
long-term services and support medicaid waiver component). 10130

(3) An individual who is eligible for the state-funded 10131  
component because the individual meets the requirement of division 10132  
(D)(2)(c) of this section may participate in the component on that 10133  
basis for not more than ~~three months~~ ninety days. 10134

(4) The director of aging shall adopt rules in accordance 10135  
with section 111.15 of the Revised Code to implement the 10136  
state-funded component. The additional eligibility requirements 10137  
established in the rules may vary for the different groups of 10138  
individuals specified in divisions (D)(2)(a), (b), and (c) of this 10139  
section. 10140

**Sec. 173.42.** (A) As used in sections 173.42 to 173.434 of the 10141  
Revised Code: 10142

(1) "Area agency on aging" means a public or private 10143  
nonprofit entity designated under section 173.011 of the Revised 10144  
Code to administer programs on behalf of the department of aging. 10145

(2) "Department of aging-administered medicaid waiver 10146  
component" means each of the following: 10147

(a) The medicaid-funded component of the PASSPORT program 10148  
created under section 173.40 of the Revised Code; 10149

(b) The choices program created under section 173.403 of the 10150  
Revised Code; 10151

(c) The medicaid-funded component of the assisted living 10152  
program created under section 5111.89 of the Revised Code; 10153

(d) Any other medicaid waiver component, as defined in 10154  
section 5111.85 of the Revised Code, that the department of aging 10155  
administers pursuant to an interagency agreement with the 10156

department of job and family services under section 5111.91 of the Revised Code. 10157  
10158

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following: 10159  
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10161

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component; 10162  
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(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: 10164  
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10166  
10167

(i) Home health services; 10168

(ii) Private duty nursing services; 10169

(iii) Durable medical equipment; 10170

(iv) Services of a clinical nurse specialist; 10171

(v) Services of a certified nurse practitioner. 10172

(c) Services available to a participant of the PACE program. 10173

(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. 10174  
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(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code. 10178  
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(6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 10180  
10181

(7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code. 10182  
10183  
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(8) "PASSPORT administrative agency" means an entity under 10185

contract with the department of aging to provide administrative 10186  
services regarding the PASSPORT program. 10187

(9) "Program administrator" means an area agency on aging or 10188  
other entity under contract with the department of aging to 10189  
administer the long-term care consultation program in a geographic 10190  
region specified in the contract. 10191

(10) "Representative" means a person acting on behalf of an 10192  
individual specified in division (G) of this section. A 10193  
representative may be a family member, attorney, hospital social 10194  
worker, or any other person chosen to act on behalf of the 10195  
individual. 10196

(B) The department of aging shall develop a long-term care 10197  
consultation program whereby individuals or their representatives 10198  
are provided with long-term care consultations and receive through 10199  
these professional consultations information about options 10200  
available to meet long-term care needs and information about 10201  
factors to consider in making long-term care decisions. The 10202  
long-term care consultations provided under the program may be 10203  
provided at any appropriate time, as permitted or required under 10204  
this section and the rules adopted under it, including either 10205  
prior to or after the individual who is the subject of a 10206  
consultation has been admitted to a nursing facility or granted 10207  
assistance in receiving home and community-based services covered 10208  
by medicaid components the department of aging administers. 10209

(C) The long-term care consultation program shall be 10210  
administered by the department of aging, except that the 10211  
department may have the program administered on a regional basis 10212  
by one or more program administrators. The department and each 10213  
program administrator shall administer the program in such a 10214  
manner that all of the following are included: 10215

(1) Coordination and collaboration with respect to all 10216

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| available funding sources for long-term care services;   | 10217                                     |
| (2) Assessments of individuals regarding their long-term care service needs;   | 10218<br>10219                            |
| (3) Assessments of individuals regarding their on-going eligibility for long-term care services;   | 10220<br>10221                            |
| (4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;   | 10222<br>10223<br>10224                   |
| (5) Priorities for using available resources efficiently and effectively.  | 10225<br>10226                            |
| (D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.   | 10227<br>10228<br>10229                   |
| (E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:  | 10230<br>10231<br>10232                   |
| (1) The availability of any long-term care options open to the individual;   | 10233<br>10234                            |
| (2) Sources and methods of both public and private payment for long-term care services;  | 10235<br>10236                            |
| (3) Factors to consider when choosing among the available programs, services, and benefits;  | 10237<br>10238                            |
| (4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.   | 10239<br>10240<br>10241                   |
| (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 | 10242<br>10243<br>10244<br>10245<br>10246 |

required under section 5111.204 of the Revised Code. 10247

(G)(1) Unless an exemption specified in division (I) of this 10248  
section is applicable, each of the following shall be provided 10249  
with a long-term care consultation: 10250

(a) An individual who applies or indicates an intention to 10251  
apply for admission to a nursing facility, regardless of the 10252  
source of payment to be used for the individual's care in a 10253  
nursing facility; 10254

(b) An individual who requests a long-term care consultation; 10255

(c) An individual identified by the department or a program 10256  
administrator as being likely to benefit from a long-term care 10257  
consultation. 10258

(2) In addition to the individuals specified in division 10259  
(G)(1) of this section, a long-term care consultation may be 10260  
provided to a nursing facility resident regardless of the source 10261  
of payment being used for the resident's care in the nursing 10262  
facility. 10263

(H)(1) Except as provided in division (H)(2) or (3) of this 10264  
section, a long-term care consultation provided pursuant to 10265  
division (G) of this section shall be provided as follows: 10266

(a) If the individual for whom the consultation is being 10267  
provided has applied for medicaid and the consultation is being 10268  
provided concurrently with the assessment required under section 10269  
5111.204 of the Revised Code, the consultation shall be completed 10270  
in accordance with the applicable time frames specified in that 10271  
section for providing a level of care determination based on the 10272  
assessment. 10273

(b) In all other cases, the consultation shall be provided 10274  
not later than five calendar days after the department or program 10275  
administrator receives notice of the reason for which the 10276

consultation is to be provided pursuant to division (G) of this section. 10277  
10278

(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section. 10279  
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(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or program administrator may do any of the following: 10283  
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(a) In the case of an individual specified in division (G)(1) of this section, exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section; 10287  
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(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility; 10291  
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(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable. 10294  
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(I) An individual is not required to be provided a long-term care consultation under division (G)(1) of this section if any of the following apply: 10296  
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(1) The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate; 10299  
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(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code; 10302  
10303  
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(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care 10305  
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in conjunction with one or more facilities that provide a less 10307  
intensive level of services, including a residential care facility 10308  
licensed under Chapter 3721. of the Revised Code, ~~an adult care a~~ 10309  
residential facility licensed under sections 5119.70 to 5119.88 10310  
section 5119.22 of the Revised Code that provides accommodations, 10311  
supervision, and personal care services for three to sixteen 10312  
unrelated adults, or an independent living arrangement; 10313

(4) The individual is to receive continual care in a home for 10314  
the aged exempt from taxation under section 5701.13 of the Revised 10315  
Code; 10316

(5) The individual is seeking admission to a facility that is 10317  
not a nursing facility with a provider agreement under section 10318  
5111.22, 5111.671, or 5111.672 of the Revised Code; 10319

(6) The individual is exempted from the long-term care 10320  
consultation requirement by the department or the program 10321  
administrator pursuant to rules that may be adopted under division 10322  
(L) of this section. 10323

(J) As part of the long-term care consultation program, the 10324  
department or program administrator shall assist an individual or 10325  
individual's representative in accessing all sources of care and 10326  
services that are appropriate for the individual and for which the 10327  
individual is eligible, including all available home and 10328  
community-based services covered by medicaid components the 10329  
department of aging administers. The assistance shall include 10330  
providing for the conduct of assessments or other evaluations and 10331  
the development of individualized plans of care or services under 10332  
section 173.424 of the Revised Code. 10333

(K) No nursing facility for which an operator has a provider 10334  
agreement under section 5111.22, 5111.671, or 5111.672 of the 10335  
Revised Code shall admit any individual as a resident, unless the 10336  
nursing facility has received evidence that a long-term care 10337

consultation has been completed for the individual or division (I) 10338  
of this section is applicable to the individual. 10339

(L) The director of aging may adopt any rules the director 10340  
considers necessary for the implementation and administration of 10341  
this section. The rules shall be adopted in accordance with 10342  
Chapter 119. of the Revised Code and may specify any or all of the 10343  
following: 10344

(1) Procedures for providing long-term care consultations 10345  
pursuant to this section; 10346

(2) Information to be provided through long-term care 10347  
consultations regarding long-term care services that are 10348  
available; 10349

(3) Criteria and procedures to be used to identify and 10350  
recommend appropriate service options for an individual receiving 10351  
a long-term care consultation; 10352

(4) Criteria for exempting individuals from the long-term 10353  
care consultation requirement; 10354

(5) Circumstances under which it may be appropriate to 10355  
provide an individual's long-term care consultation after the 10356  
individual's admission to a nursing facility rather than before 10357  
admission; 10358

(6) Criteria for identifying nursing facility residents who 10359  
would benefit from the provision of a long-term care consultation; 10360

(7) A description of the types of information from a nursing 10361  
facility that is needed under the long-term care consultation 10362  
program to assist a resident with relocation from the facility; 10363

(8) Standards to prevent conflicts of interest relative to 10364  
the referrals made by a person who performs a long-term care 10365  
consultation, including standards that prohibit the person from 10366  
being employed by a provider of long-term care services; 10367

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section. 10368  
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(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of job and family services, or nursing facility holding the data shall grant access to the data on receipt of the request from the department of aging or program administrator. 10370  
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(N)(1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code for any of the following reasons: 10381  
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(a) The nursing facility admits an individual, without evidence that a long-term care consultation has been provided, as required by this section; 10385  
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(b) The nursing facility denies a person attempting to provide a long-term care consultation access to the facility or a resident of the facility; 10388  
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(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program. 10391  
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(2) In accordance with section 5111.62 of the Revised Code, all fines collected under division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund. 10395  
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Sec. 173.45. As used in this section and in sections 173.46 10399  
to 173.49 of the Revised Code: 10400

(A) "~~Adult care~~ Residential facility" ~~has the same meaning as~~ 10401  
~~in~~ means a residential facility licensed under section 5119.70 10402  
5119.22 of the Revised Code that provides accommodations, 10403  
supervision, and personal care services for three to sixteen 10404  
unrelated adults. 10405

(B) "Community-based long-term care services" has the same 10406  
meaning as in section 173.14 of the Revised Code. 10407

(C) "Long-term care facility" means a nursing home or 10408  
residential care facility. 10409

(D) "Nursing home" and "residential care facility" have the 10410  
same meanings as in section 3721.01 of the Revised Code. 10411

(E) "Nursing facility" has the same meaning as in section 10412  
5111.20 of the Revised Code. 10413

Sec. 173.46. (A) The department of aging shall develop and 10414  
publish a guide to long-term care facilities for use by 10415  
individuals considering long-term care facility admission and 10416  
their families, friends, and advisors. The guide, which shall be 10417  
titled the Ohio long-term care consumer guide, may be published in 10418  
printed form or in electronic form for distribution over the 10419  
internet. The guide may be developed as a continuation or 10420  
modification of the guide published by the department prior to 10421  
September 29, 2005, under rules adopted under section 173.02 of 10422  
the Revised Code. 10423

(B) The Ohio long-term care consumer guide shall include 10424  
information on each long-term care facility in this state. For 10425  
each facility, the guide shall include the following information, 10426  
as applicable to the facility: 10427

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| (1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations;  | 10428<br>10429                                     |
| (2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative;   | 10430<br>10431<br>10432<br>10433                   |
| (3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code;   | 10434<br>10435                                     |
| (4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code.  | 10436<br>10437                                     |
| (C) The Ohio long-term care consumer guide may include information on <del>adult care</del> <u>residential</u> facilities and providers of community-based long-term care services. The department may adopt rules under section 173.49 of the Revised Code to specify the information to be included in the guide pursuant to this division.  | 10438<br>10439<br>10440<br>10441<br>10442          |
| <b>Sec. 189.04.</b> (A) The local government innovation council shall award loans to a qualified political subdivision or a qualified group of political subdivisions to be used for the purchase of equipment, facilities, or systems or for implementation costs.  | 10443<br>10444<br>10445<br>10446<br>10447          |
| Loans made under division (A) of this section shall be repaid by recipients using savings achieved from the innovation project <u>or surplus money in a fund described in section 5709.43, 5709.75, or 5709.80 of the Revised Code.</u>  | 10448<br>10449<br>10450<br>10451                   |
| (B) Up to twenty per cent of the funds in the local government innovation fund, established in section 189.05 of the Revised Code, may be awarded by the council as grants to political subdivisions for use in process improvement or implementation of innovation project awards, <u>except for local government performance measurement grants awarded under section 189.041 of the Revised</u> | 10452<br>10453<br>10454<br>10455<br>10456<br>10457 |

Code. 10458

(C) In every two fiscal years, the council may award one million dollars from the local government innovation fund, established in section 189.05 of the Revised Code, as local government performance measurement grants under section 189.041 of the Revised Code. 10459  
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(D) The council shall award not more than one hundred thousand dollars in total grants and not more than one hundred thousand dollars in total loans to an individual political subdivision per innovation project under this section, excluding local government performance measurement grants awarded under section 189.041 of the Revised Code. For an innovation project involving a qualified group of political subdivisions, the council shall award, in total grants and loans, not more than five hundred thousand dollars, and the average amount per political subdivision shall not exceed one hundred thousand dollars. 10464  
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**Sec. 189.041.** (A) The local government innovation council shall award local government performance measurement grants to political subdivisions to pay the necessary expenses of participation in the center for performance measurement program of the international city/county management association. A political subdivision may use moneys awarded under this section only for the following purposes: 10474  
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(1) To pay the fee to the international city/county management association to enroll the political subdivision in the program; 10481  
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(2) To pay employees of the political subdivision for the hours of work required to receive training to participate in the program and to gather and submit data to the center for performance measurement for the purpose of participation in the program; 10484  
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(3) To pay an independent contractor to receive training to participate in the program and to gather and submit data to the center for performance measurement for the purpose of participation in the program; and 10489  
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(4) To pay for necessary equipment, including computer equipment and software, for the political subdivision to receive training to participate in the program and to gather and submit data to the center for performance measurement for the purpose of participation in the program, if the political subdivision does not already possess such equipment. 10493  
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(B)(1) All political subdivisions of the state are eligible to apply for a grant under this section. A political subdivision shall submit an application for a local government performance measurement grant to the council on a form specified by the council. The form shall require the political subdivision to provide a detailed estimate of the necessary expenses for the political subdivision to participate in the program. 10499  
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(2) A political subdivision that is awarded funds under this section shall not be required to contribute matching funds toward the cost of participation in the program. 10506  
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(3) The council shall award grants under this section in the order in which the council receives each properly completed application form, and in the amount reasonably requested in the application. 10509  
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(C)(1) The council shall award not more than ten thousand dollars in every two fiscal years to a political subdivision under this section. 10513  
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(2) After the end of each fiscal year in which a political subdivision has been awarded a grant under this section, the political subdivision shall do both of the following: 10516  
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(a) Prepare and submit to the council, on a form prescribed 10519

by the council, an itemized statement of the grant moneys that 10520  
were expended and the purposes for which those moneys were 10521  
expended. 10522

(b) Submit to the council any grant moneys awarded under this 10523  
section that remain unexpended. The council shall deposit all 10524  
unexpended moneys in the state treasury to the credit of the local 10525  
government innovation fund created in section 189.05 of the 10526  
Revised Code. 10527

**Sec. 189.05.** Funds for awards made by the local government 10528  
innovation council shall be made from the local government 10529  
innovation fund, which is hereby created in the state treasury. 10530  
The fund shall consist of moneys appropriated to it, repayments of 10531  
principal and interest on loans made from the fund, unexpended 10532  
grant moneys submitted to the council under division (C)(2)(a) of 10533  
section 189.041 of the Revised Code, and any grants or donations 10534  
received from nonpublic entities. Interest earned on the money in 10535  
the fund shall be credited to the fund. 10536

**Sec. 189.06.** (A) All political subdivisions of the state are 10537  
eligible to apply for awards under the local government innovation 10538  
program. ~~Applications~~ Except for applications submitted for a 10539  
local government performance measurement grant under section 10540  
189.041 of the Revised Code, applications shall be submitted to 10541  
the department of development on a form specified by the director 10542  
of development. The department shall provide the application to 10543  
the local government innovation council for evaluation and 10544  
selection. 10545

~~The~~ Except as provided in section 189.041 of the Revised 10546  
Code, the local government innovation council shall award loans 10547  
and grants under the program in accordance with a competitive 10548  
process to be developed by the council. 10549

(B) Not later than December 31, 2011, the council shall 10550  
establish criteria for evaluating proposals and making awards to 10551  
political subdivisions, other than awards made under section 10552  
189.041 of the Revised Code. The criteria shall be developed in 10553  
consultation with nonpublic entities involved in local government 10554  
issues, state institutions of higher education, and the department 10555  
of development, as determined by the council. The criteria shall 10556  
include a requirement that at least one of the political 10557  
subdivisions that is a party to the proposal provide matching 10558  
funds. The matching funds may be provided by a nonpublic entity or 10559  
may be paid using surplus money in a fund described in section 10560  
5709.43, 5709.75, or 5709.80 of the Revised Code. The criteria for 10561  
evaluating proposals may include the following provisions: 10562

(1) The expected return on investment, based on the ratio of 10563  
expected savings; 10564

(2) The number of participating entities in the proposal; 10565

(3) The probability of the proposal's success; 10566

(4) The percentage of local matching funds available; 10567

(5) The ability to replicate the proposal in other political 10568  
subdivisions; 10569

(6) Whether the proposal is part of a larger consolidation 10570  
effort by the applicant or applicants; 10571

(7) Whether the proposal is to implement performance audit or 10572  
other audit recommendations under Chapter 117. of the Revised 10573  
Code; 10574

(8) Whether the applicant has successfully completed an 10575  
innovation project in the past. 10576

**Sec. 189.08.** (A) Starting not later than March 1, 2012, the 10577  
local government innovation council shall begin evaluating 10578  
applications and proposals received under section 189.041 of the 10579

Revised Code and from the department of development for awards to 10580  
political subdivisions. Not later than July 1, 2012, the council 10581  
shall make its first round of awards to the political 10582  
subdivisions. 10583

(B) After making the first round of awards, the council shall 10584  
evaluate proposals and make awards on a quarterly basis, or on 10585  
another schedule determined by the council, with the council 10586  
determining the funding levels for each round of awards. 10587

(C) When making awards from the local government innovation 10588  
fund created in section 189.05 of the Revised Code, except for 10589  
grants awarded under section 189.041 of the Revised Code, the 10590  
funds awarded across all rounds shall be allocated as follows: 10591

(1) At least thirty per cent to political subdivisions that 10592  
are not counties and have a population of less than 20,000 10593  
residents as determined in the decennial census conducted in 2010 10594  
or counties with a population of less than 235,000 residents as 10595  
determined in the decennial census conducted in 2010; 10596

(2) At least thirty per cent to political subdivisions that 10597  
are not counties and have a population of 20,000 residents or more 10598  
as determined in the decennial census conducted in 2010 or 10599  
counties with a population of 235,000 residents or more as 10600  
determined in the decennial census conducted in 2010. 10601

If a proposal includes participants from both divisions 10602  
(C)(1) and (2) of this section, the award may be drawn from either 10603  
or both tiers in the local government innovation fund. 10604

**Sec. 191.01.** As used in this chapter: 10605

(A) "Administrative safeguards," "availability," 10606  
"confidentiality," "integrity," "physical safeguards," and 10607  
"technical safeguards" have the same meanings as in 45 C.F.R. 10608  
164.304. 10609

(B) "Business associate," "covered entity," "health plan," 10610  
"individually identifiable health information," and "protected 10611  
health information" have the same meanings as in 45 C.F.R. 10612  
160.103. 10613

(C) "Executive director of the office of health 10614  
transformation" or "executive director" means the executive 10615  
director of the office of health transformation or the chief 10616  
administrative officer of a successor governmental entity 10617  
responsible for health system oversight in this state. 10618

(D) "Government program providing public benefits" means any 10619  
program administered by a state agency that has been identified, 10620  
pursuant to section 191.02 of the Revised Code, by the executive 10621  
director of the office of health transformation in consultation 10622  
with the individuals specified in that section. 10623

(E) "Office of health transformation" means the office of 10624  
health transformation created by executive order 2011-02K. 10625

(F) "Operating protocol" means a protocol adopted by the 10626  
executive director of the office of health transformation or the 10627  
executive director's designee under division (D) of section 191.06 10628  
of the Revised Code. 10629

(G) "Participating agency" means a state agency that 10630  
participates in a health transformation initiative as specified in 10631  
the one or more operating protocols adopted for the initiative 10632  
under division (D) of section 191.06 of the Revised Code. 10633

(H) "Personally identifiable information" means information 10634  
that meets both of the following criteria: 10635

(1) It identifies an individual or there is a reasonable 10636  
basis to believe that it may be used to identify an individual; 10637

(2) It relates to an individual's eligibility for, 10638  
application for, or receipt of public benefits from a government 10639

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|---|-------|
| <u>program providing public benefits.</u>                                 | 10640 |
| <u>(I) "State agency" means each of the following:</u>                    | 10641 |
| <u>(1) The department of aging;</u>                                       | 10642 |
| <u>(2) The department of alcohol and drug addiction services;</u>         | 10643 |
| <u>(3) The department of development;</u>                                 | 10644 |
| <u>(4) The department of developmental disabilities;</u>                  | 10645 |
| <u>(5) The department of education;</u>                                   | 10646 |
| <u>(6) The department of health;</u>                                      | 10647 |
| <u>(7) The department of insurance;</u>                                   | 10648 |
| <u>(8) The department of job and family services;</u>                     | 10649 |
| <u>(9) The department of mental health;</u>                               | 10650 |
| <u>(10) The department of rehabilitation and correction;</u>              | 10651 |
| <u>(11) The department of taxation;</u>                                   | 10652 |
| <u>(12) The department of veterans services;</u>                          | 10653 |
| <u>(13) The department of youth services.</u>                             | 10654 |
| <u>(J) "Unsecured" has the same meaning as in 16 C.F.R. 318.2.</u>        | 10655 |
| <br>  |       |
| <u><b>Sec. 191.02.</b> The executive director of the office of health</u> | 10656 |
| <u>transformation, in consultation with all of the following</u>          | 10657 |
| <u>individuals, shall identify each government program administered</u>   | 10658 |
| <u>by a state agency that is to be considered a government program</u>    | 10659 |
| <u>providing public benefits for purposes of section 191.04 of the</u>    | 10660 |
| <u>Revised Code:</u>  | 10661 |
| <br>  |       |
| <u>(A) The director of aging;</u>   | 10662 |
| <u>(B) The director of alcohol and drug addiction services;</u>           | 10663 |
| <u>(C) The director of development;</u>                                   | 10664 |
| <u>(D) The director of developmental disabilities;</u>                    | 10665 |

|   |                |
|---|----------------|
| <u>(E) The director of health;</u>  | 10666          |
| <u>(F) The director job and family services;</u>                                  | 10667          |
| <u>(G) The director of mental health;</u>   | 10668          |
| <u>(H) The director of rehabilitation and correction;</u>                         | 10669          |
| <u>(I) The director of veterans services;</u>                                     | 10670          |
| <u>(J) The director of youth services;</u>  | 10671          |
| <u>(K) The administrator of the rehabilitation services</u><br><u>commission;</u> | 10672<br>10673 |
| <u>(L) The administrator of workers' compensation;</u>                            | 10674          |
| <u>(M) The superintendent of insurance;</u>                                       | 10675          |
| <u>(N) The superintendent of public instruction;</u>                              | 10676          |
| <u>(O) The tax commissioner.</u>  | 10677          |
| <br>  |                |
| <u>Sec. 191.04. (A) In accordance with federal laws governing</u>                 | 10678          |
| <u>the confidentiality of individually identifiable health</u>                    | 10679          |
| <u>information, including the "Health Insurance Portability and</u>               | 10680          |
| <u>Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021,</u>          | 10681          |
| <u>42 U.S.C. 1320d et seq., as amended, and regulations promulgated</u>           | 10682          |
| <u>by the United States department of health and human services to</u>            | 10683          |
| <u>implement the act, a state agency may exchange protected health</u>            | 10684          |
| <u>information with another state agency relating to eligibility for</u>          | 10685          |
| <u>or enrollment in a health plan or relating to participation in a</u>           | 10686          |
| <u>government program providing public benefits if the exchange of</u>            | 10687          |
| <u>information is necessary for either or both of the following:</u>              | 10688          |
| <br>  |                |
| <u>(1) Operating a health plan;</u>   | 10689          |
| <br>  |                |
| <u>(2) Coordinating, or improving the administration or</u>                       | 10690          |
| <u>management of, the health care-related functions of at least one</u>           | 10691          |
| <u>government program providing public benefits.</u>                              | 10692          |
| <br>  |                |
| <u>(B) For fiscal year 2013 only, a state agency also may</u>                     | 10693          |

exchange personally identifiable information with another state 10694  
agency for purposes related to and in support of a health 10695  
transformation initiative identified by the executive director of 10696  
the office of health transformation pursuant to division (C) of 10697  
section 191.06 of the Revised Code. 10698

(C) With respect to a state agency that uses or discloses 10699  
personally identifiable information, all of the following 10700  
conditions apply: 10701

(1) The state agency shall use or disclose the information 10702  
only as permitted or required by state and federal law. In 10703  
addition, if the information is obtained during fiscal year 2013 10704  
from an exchange of personally identifiable information permitted 10705  
under division (B) of this section, the agency shall also use or 10706  
disclose the information in accordance with all operating 10707  
protocols that apply to the use or disclosure. 10708

(2) If the state agency is a state agency other than the 10709  
department of job and family services and it uses or discloses 10710  
protected health information that is related to a medicaid 10711  
recipient and obtained from the department of job and family 10712  
services or another agency operating a component of the medicaid 10713  
program, the state agency shall comply with all state and federal 10714  
laws that apply to the department of job and family services when 10715  
that department, as the state's single state agency to supervise 10716  
the medicaid program as specified in section 5111.01 of the 10717  
Revised Code, uses or discloses protected health information. 10718

(3) A state agency shall implement administrative, physical, 10719  
and technical safeguards for the purpose of protecting the 10720  
confidentiality, integrity, and availability of personally 10721  
identifiable information the creation, receipt, maintenance, or 10722  
transmittal of which is affected or governed by this section. 10723

(4) If a state agency discovers an unauthorized use or 10724

disclosure of unsecured protected health information or unsecured 10725  
individually identifiable health information, the state agency 10726  
shall, not later than seventy-two hours after the discovery, do 10727  
all of the following: 10728

(a) Identify the individuals who are the subject of the 10729  
protected health information or individually identifiable health 10730  
information; 10731

(b) Report the discovery and the names of all individuals 10732  
identified pursuant to division (C)(4)(a) of this section to all 10733  
other state agencies and the executive director of the office of 10734  
health transformation or the executive director's designee; 10735

(c) Mitigate, to the extent reasonably possible, any 10736  
potential adverse effects of the unauthorized use or disclosure. 10737

(5) A state agency shall make available to the executive 10738  
director of the office of health transformation or the executive 10739  
director's designee, and to any other state or federal 10740  
governmental entity required by law to have access on that 10741  
entity's request, all internal practices, records, and 10742  
documentation relating to personally identifiable information it 10743  
receives, uses, or discloses that is affected or governed by this 10744  
section. 10745

(6) On termination or expiration of an operating protocol and 10746  
if feasible, a state agency shall return or destroy all personally 10747  
identifiable information received directly from or received on 10748  
behalf of another state agency. If the personally identifiable 10749  
information is not returned or destroyed, the state agency 10750  
maintaining the information shall extend the protections set forth 10751  
in this section for as long as it is maintained. 10752

(7) If a state agency enters into a subcontract or, when 10753  
required by 45 C.F.R. 164.502(e)(2), a business associate 10754  
agreement, the subcontract or business associate agreement shall 10755

require the subcontractor or business associate to comply with the 10756  
terms of this section as if the subcontractor or business 10757  
associate were a state agency. 10758

Sec. 191.06. (A) The provisions of this section shall apply 10759  
only for fiscal year 2013. 10760

(B) The executive director of the office of health 10761  
transformation or the executive director's designee may facilitate 10762  
the coordination of operations and exchange of information between 10763  
state agencies. The purpose of the executive director's authority 10764  
under this section is to support agency collaboration for health 10765  
transformation purposes, including modernization of the medicaid 10766  
program, streamlining of health and human services programs in 10767  
this state, and improving the quality, continuity, and efficiency 10768  
of health care and health care support systems in this state. 10769

(C) In furtherance of the authority of the executive director 10770  
of the office of health transformation under division (B) of this 10771  
section, the executive director or the executive director's 10772  
designee shall identify each health transformation initiative in 10773  
this state that involves the participation of two or more state 10774  
agencies and that permits or requires an interagency agreement to 10775  
be entered into for purposes of specifying each participating 10776  
agency's role in coordinating, operating, or funding the 10777  
initiative, or facilitating the exchange of data or other 10778  
information for the initiative. The executive director shall 10779  
publish a list of the identified health transformation initiatives 10780  
on the internet web site maintained by the office of health 10781  
transformation. 10782

(D) For each health transformation initiative that is 10783  
identified under division (C) of this section, the executive 10784  
director or the executive director's designee shall, in 10785  
consultation with each participating agency, adopt one or more 10786

operating protocols. Notwithstanding any law enacted by the 10787  
general assembly or rule adopted by a state agency, the provisions 10788  
in a protocol shall supersede any provisions in an interagency 10789  
agreement, including an interagency agreement entered into under 10790  
section 5101.10 or 5111.91 of the Revised Code, that differ from 10791  
the provisions of the protocol. 10792

(E)(1) An operating protocol adopted under division (D) of 10793  
this section shall include both of the following: 10794

(a) All terms necessary to meet the requirements of "other 10795  
arrangements" between a covered entity and a business associate 10796  
that are referenced in 45 C.F.R. 164.314(a)(2)(ii); 10797

(b) If known, the date on which the protocol will terminate 10798  
or expire. 10799

(2) In addition, a protocol may specify the extent to which 10800  
each participating agency is responsible and accountable for 10801  
completing the tasks necessary for successful completion of the 10802  
initiative, including tasks relating to the following components 10803  
of the initiative: 10804

(a) Workflow; 10805

(b) Funding; 10806

(c) Exchange of data or other information that is 10807  
confidential pursuant to state or federal law. 10808

(F) An operating protocol adopted under division (D) of this 10809  
section shall have the same force and effect as an interagency 10810  
agreement or data sharing agreement, and each participating agency 10811  
shall comply with it. 10812

(G) The director of job and family services shall determine 10813  
whether a waiver of federal medicaid requirements or a medicaid 10814  
state plan amendment is necessary to fulfill the requirements of 10815  
this section. If the director determines a waiver or medicaid 10816

state plan amendment is necessary, the director shall apply to the 10817  
United States secretary of health and human services for the 10818  
waiver or amendment. 10819

**Sec. 306.04.** (A) Except as otherwise provided in division (B) 10820  
of this section, employees of a county transit board or a board of 10821  
county commissioners operating a transit system are employees of 10822  
the county. If the system is operated by the board of county 10823  
commissioners, the board shall appoint an executive director, who 10824  
shall be in the unclassified service. 10825

(B) Any county transit board that established its own civil 10826  
service organization and procedure prior to ~~the effective date of~~ 10827  
~~this amendment~~ October 25, 1995, shall continue to operate under 10828  
that organization. Appointments and promotions in that system 10829  
shall be made, as far as practicable, by competitive examination. 10830

A board that established its own civil service organization 10831  
prior to ~~the effective date of this amendment~~ October 25, 1995, 10832  
shall establish by rule the seniority provisions relating to 10833  
street railway and motor bus employees in effect at the time of 10834  
the acquisition of the transit system by the county. The vacation, 10835  
holiday, and sick leave privileges shall not be regulated by other 10836  
provisions of law relating to public employees of the state or 10837  
county, except that the transit board, its officers and employees, 10838  
shall be subject to the public employees retirement system of the 10839  
state and the transit board shall assume any pension obligations 10840  
which have been assumed by any publicly owned transit system which 10841  
the county may acquire. 10842

(C) A county transit board or board of county commissioners 10843  
operating a transit system may: 10844

(1) Acquire in its name by gift, grant, purchase, or 10845  
condemnation and hold and operate real estate and interests 10846  
therein and personal property suitable for its purposes; 10847

(2) In its name purchase, acquire, construct, enlarge, 10848  
improve, equip, repair, maintain, sell, exchange, lease as lessee 10849  
or lessor, receive a right of use of, and manage, control, and 10850  
operate, in or out of the county, a county transit system 10851  
consisting of all real estate and interests therein, personal 10852  
property, and a combination thereof, for or related to the 10853  
movement of persons including but not limited to street railway, 10854  
tramline, subways, rapid transits, monorails, and passenger bus 10855  
systems but excluding therefrom trucks, the movement of property 10856  
by truck, and facilities designed for use in the movement of 10857  
property by truck for hire; 10858

(3) Issue, with the approval of the county commissioners when 10859  
the issuance is made by the transit board, revenue bonds of the 10860  
county as provided in division (B) of section 306.09 of the 10861  
Revised Code, to secure funds to accomplish its purposes. The 10862  
principal of and interest on such bonds, together with all other 10863  
payments required to be made by the trust agreement or indenture 10864  
securing such bonds, shall be paid solely from revenues or other 10865  
income accruing to the board from facilities of the county transit 10866  
system designated in said agreement or indenture. 10867

(4) Enter into contracts in the exercise of the rights, 10868  
powers, and duties conferred upon it, and execute all instruments 10869  
necessary in the conduct of its business; 10870

(5) Fix, alter, and charge rates and other charges for the 10871  
use of its real estate and interests therein, personal property, 10872  
and combinations thereof; 10873

(6) Employ such financial consultants, accountants, 10874  
appraisers, consulting engineers, architects, construction 10875  
experts, attorneys-at-law, managers and other supervisory 10876  
personnel, and other officers, employees, and agents as it 10877  
determines necessary to conduct its business, and fix their 10878  
compensation and duties; 10879

|  |       |
|--|-------|
| (7) Pledge, hypothecate, or otherwise encumber its revenues        | 10880 |
| and other income as security for its obligations and enter into    | 10881 |
| trust agreements or indentures for the benefit of revenue          | 10882 |
| bondholders;   | 10883 |
| (8) Borrow money or accept or contract to accept advances,         | 10884 |
| loans, gifts, grants, devises, or bequests from and enter into     | 10885 |
| contracts or agreements with any federal, state, or other          | 10886 |
| governmental or private source and hold and apply advances, loans, | 10887 |
| gifts, grants, devises, or bequests according to the terms thereof | 10888 |
| including provisions which are required by such federal, state, or | 10889 |
| other governmental or private source to protect the interest of    | 10890 |
| employees affected by such advances, loans, gifts, grants,         | 10891 |
| devises, or bequests. Such advances, loans, gifts, grants, or      | 10892 |
| devises may be subject to any reasonable reservation and any gift, | 10893 |
| grant, or devise or real estate may be in fee simple or any lesser | 10894 |
| estate. Any advances or loans received from any federal, state, or | 10895 |
| other governmental or private source may be repaid in accordance   | 10896 |
| with the terms of such advance or loan.                            | 10897 |
| (9) Conduct investigations and surveys into the needs of the       | 10898 |
| public within or without the county for transportation services to | 10899 |
| provide for the movement of persons within, into, or from the area | 10900 |
| serviced or to be serviced by the county transit system;           | 10901 |
| (10) Enter into lawful arrangements with the appropriate           | 10902 |
| federal or state department or agency, county, township, municipal | 10903 |
| corporation, or other political subdivision or public agency for   | 10904 |
| the planning and installation of any public facilities which are   | 10905 |
| determined necessary in the conduct of its business;               | 10906 |
| (11) Purchase fire, extended coverage, and liability               | 10907 |
| insurance for the real estate and interests therein, personal      | 10908 |
| property and any combination thereof, used by or in connection     | 10909 |
| with the county transit system and insurance covering the board    | 10910 |
| and the county transit system and its officers and employees for   | 10911 |

|  |       |
|--|-------|
| liability for damage or injury to persons or property;             | 10912 |
| (12) Procure and pay all or any part of the cost of group          | 10913 |
| hospitalization, surgical, major medical, or sickness and accident | 10914 |
| insurance, or a combination thereof, for the officers and          | 10915 |
| employees of the county transit system and their immediate         | 10916 |
| dependents, issued by an insurance company, duly authorized to do  | 10917 |
| business in this state;  | 10918 |
| (13) Sell, lease, release, or otherwise dispose of real            | 10919 |
| estate or interests therein or personal property owned by it and   | 10920 |
| grant such easements across its real estate and interests therein  | 10921 |
| as will not interfere with its use by the county transit system;   | 10922 |
| (14) Establish rules for the use and operation of the county       | 10923 |
| transit system including the real estate or interests therein,     | 10924 |
| personal property or a combination of the foregoing used by or in  | 10925 |
| connection with such system;                                       | 10926 |
| (15) Exercise the power of eminent domain to appropriate any       | 10927 |
| real estate or interests therein, personal property, franchises,   | 10928 |
| or any combination thereof, within or without the county,          | 10929 |
| necessary or proper in the exercise of its powers provided in      | 10930 |
| sections 306.01 to 306.13 of the Revised Code, as provided in      | 10931 |
| sections 163.01 to 163.22 of the Revised Code, and subject to      | 10932 |
| divisions (15)(a), (b), and (c) of this section, provided that a   | 10933 |
| county transit board or a board of county commissioners operating  | 10934 |
| a transit system shall not proceed to so appropriate real property | 10935 |
| outside its territorial boundaries, until it has served at the     | 10936 |
| office of the county commissioners of the county in which it is    | 10937 |
| proposed to appropriate real property, a notice describing the     | 10938 |
| real property to be taken and the purpose for which it is proposed | 10939 |
| to be taken, and such county commissioners have entered on their   | 10940 |
| journal within thirty days after such service a resolution         | 10941 |
| approving such appropriation;                                      | 10942 |

(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 10975  
or right in or to the appropriated property or facility until the 10976  
relocated property or facility is available for use and until 10977  
marketable title thereto has been transferred to the political 10978  
subdivision, public corporation, public utility, or common 10979  
carrier. Nothing in this division shall require any board of 10980  
county commissioners or county transit board operating a county 10981  
transit system to so restore, relocate, or duplicate, if all of 10982  
the real estate and interests therein, personal property, and any 10983  
combination of the foregoing which is owned by a public utility or 10984  
common carrier and used by it or in connection with the movement 10985  
of persons, is acquired by exercise of the power of eminent 10986  
domain. 10987

(16) When real property is acquired that is located outside 10988  
the county and is removed from the tax duplicate, the county 10989  
transit board or board of county commissioners operating a transit 10990  
system shall pay annually to the county treasurer of the county in 10991  
which that property is located, commencing with the first tax year 10992  
in which that property is removed from the tax duplicate, an 10993  
amount of money in lieu of taxes equal to the smaller of the 10994  
following: 10995

(a) The last annual installment of taxes due from the 10996  
acquired property before removal from the tax duplicate; 10997

(b) An amount equal to the difference between the combined 10998  
revenue from real estate taxes of all the taxing districts in 10999  
which the property is located in the tax year immediately prior to 11000  
the removal of the acquired property from the tax duplicate, and 11001  
either: 11002

(i) The total revenue which would be produced by the tax rate 11003  
of each such taxing district in the tax year immediately prior to 11004  
the removal of the acquired property from the tax duplicate, 11005  
applied to the real estate tax duplicate of each of such taxing 11006

districts in each tax year subsequent to the year of removal; or 11007

(ii) The combined revenue from real estate taxes of all such 11008  
taxing districts in each tax year subsequent to the year of 11009  
removal, whichever is the greater. 11010

The county transit board or board of county commissioners may 11011  
be exempted from such payment by agreement of the affected taxing 11012  
district or districts in the county in which the property is 11013  
located. 11014

The county auditor of the county in which that property is 11015  
located shall apportion each such annual payment to each taxing 11016  
district as if the annual payment had been levied and collected as 11017  
a tax. 11018

Those annual payments shall never again be made after they 11019  
have ceased. 11020

(17) Sue or be sued, plead or be impleaded, and be held 11021  
liable in any court of proper jurisdiction for damages received by 11022  
reason of negligence, in the same manner and to the same extent as 11023  
if the county transit system were privately operated, provided, 11024  
that no funds of a county other than those of the county transit 11025  
board or, if the transit system is operated by the board of county 11026  
commissioners, other than those in the account for the county 11027  
transit system created under division (C) of section 306.01 of the 11028  
Revised Code, shall be available for the satisfaction of judgments 11029  
rendered against that system; 11030

(18) Annually prepare and make available for public 11031  
inspection a report in condensed form showing the financial 11032  
results of the operation of the county transit system. For systems 11033  
operated by a county transit board, copies of this report shall be 11034  
furnished to the county commissioners as well as a monthly summary 11035  
statement of revenues and expenses for the preceding month 11036  
sufficient to show the exact financial condition of the county 11037

transit system as of the last day of the preceding month. 11038

(19) With the approval of the county commissioners when the 11039  
action is taken by the transit board, and without competitive 11040  
bidding, sell, lease, or grant the right of use of all or a 11041  
portion of the county transit system to any other political 11042  
subdivision, taxing district, or other public body or agency 11043  
having the power to operate a transit system; 11044

(20) Enter into and supervise franchise agreements for the 11045  
operation of a county transit system; 11046

(21) Accept the assignment of and then supervise an existing 11047  
franchise agreement for the operation of a county transit system. 11048

**Sec. 306.36.** (A) The board of trustees of a regional transit 11049  
authority may exercise the power of eminent domain to appropriate 11050  
any land, rights, rights-of-way, franchise, power lines, 11051  
easements, or other property, within or without the territorial 11052  
boundaries of the regional transit authority, necessary or proper 11053  
for the construction or efficient operation of any transit 11054  
facility or access thereto under its jurisdiction pursuant to the 11055  
procedure provided in sections 163.01 to 163.22, inclusive, of the 11056  
Revised Code, and subject to division (B) of this section, 11057  
provided that a regional transit authority shall not proceed to so 11058  
appropriate real property outside its territorial boundaries, 11059  
until it has served at the office of the county commissioners of 11060  
the county in which it is proposed to appropriate real property, a 11061  
notice describing the real property to be taken and the purpose 11062  
for which it is proposed to be taken, and such county 11063  
commissioners have entered on their journal within thirty days 11064  
after such service a resolution approving such appropriation. 11065

(B) Nothing contained in sections 306.30 to 306.53, 11066  
inclusive, of the Revised Code authorizes a regional transit 11067  
authority to appropriate any land, rights, rights-of-way, 11068

franchises, or easements belonging to the state or a municipal 11069  
corporation without the consent of the state or municipal 11070  
corporation, and no regional transit authority shall exercise the 11071  
right of eminent domain to acquire any certificate of public 11072  
convenience and necessity, or any part thereof, issued to a 11073  
for-hire motor ~~transportation company~~ carrier by the public 11074  
utilities commission of Ohio or by the ~~interstate commerce~~ 11075  
~~commission of the United States~~ federal motor carrier safety 11076  
administration, or to take or disturb other property or facilities 11077  
belonging to any political subdivision, public corporation, public 11078  
utility, or common carrier, which property or facility is 11079  
necessary and convenient in the operation of such political 11080  
subdivision, public corporation, public utility, or common 11081  
carrier, unless provision is made for the restoration, relocation, 11082  
or duplication of such property or facility, or upon the election 11083  
of such political subdivision, public corporation, public utility, 11084  
or common carrier, for the payment of compensation, if any, at the 11085  
sole cost of the regional transit authority, provided: 11086

(1) If any restoration or duplication of any property or 11087  
facility proposed to be made under this division involves a 11088  
relocation of such property or facility the new facility and 11089  
location thereof shall be of at least comparable utilitarian value 11090  
and effectiveness and such relocation shall not impair the ability 11091  
of the public utility or common carrier to compete in its original 11092  
area of operation. 11093

(2) If any restoration or duplication of any property or 11094  
facility proposed to be made under this division involves a 11095  
relocation of such property or facility, the regional transit 11096  
authority shall acquire no interest or right in or to the 11097  
appropriated property or facility until the relocated property or 11098  
facility is available for use and until marketable title thereto 11099  
has been transferred to the public utility or common carrier. 11100

(C) When real property is acquired which is located outside the territorial boundaries of the regional transit authority and which is removed from the tax duplicate, the regional transit authority shall pay annually to the county treasurer of the county in which such property is located, commencing with the first tax year in which such property is removed from the tax duplicate, an amount of money in lieu of taxes equal to the smaller of the following:

(1) The last annual installment of taxes due from the acquired property before removal from the tax duplicate;

(2) An amount equal to the difference between the combined revenue from real estate taxes of all the taxing districts in which such property is located in the tax year immediately prior to the removal of such acquired property from the tax duplicate, and either:

(a) The total revenue which would be produced by the tax rate of each such taxing district in the tax year immediately prior to the removal of such acquired property from the tax duplicate, applied to the real estate tax duplicate of each of such taxing districts in each tax year subsequent to the year of removal; or

(b) The combined revenue from real estate taxes of all such taxing districts in each tax year subsequent to the year of removal, whichever is the greater.

The county auditor of each county in which such property is located shall apportion each such annual payment to each taxing district as if such annual payment has been levied and collected as a tax.

Such annual payments shall never again be made after they have ceased.

The regional transit authority may be exempted from such payment by agreement of the affected taxing district or districts

in the county in which such property is located. 11132

**Sec. 306.55.** Beginning July 1, 2011 and until November 5, 11133  
2013, the legislative authority of any municipal corporation or 11134  
the board of township trustees of any township that has created or 11135  
joined a regional transit authority that levies a property tax and 11136  
that includes in its membership political subdivisions that are 11137  
located in a county having a population of at least four hundred 11138  
thousand according to the most recent federal census, may withdraw 11139  
the municipal corporation or the unincorporated territory of the 11140  
township from the regional transit authority in the manner 11141  
provided in this section. The legislative authority ~~of the~~ 11142  
~~municipal corporation~~ or board of township trustees ~~of the~~ 11143  
~~township~~ proposing to withdraw shall adopt a resolution to submit 11144  
the question of withdrawing from the regional transit authority to 11145  
the electors of the ~~territory~~ municipal corporation or the 11146  
unincorporated area of the township to be withdrawn and shall 11147  
certify the proposal to the board of elections for the purpose of 11148  
having the proposal placed on the ballot at the next general 11149  
election or at a special election conducted on the day of the next 11150  
primary election that occurs not less than ninety days after the 11151  
resolution is certified to the board of elections. 11152

Upon certification of a proposal to the board of elections 11153  
pursuant to this section, the board of elections shall make the 11154  
necessary arrangements for the submission of the question to the 11155  
electors of the territory to be withdrawn from the regional 11156  
transit authority qualified to vote on the question, ~~and the.~~ For 11157  
a municipal corporation, the election shall be held, canvassed, 11158  
and certified in the same manner as regular elections for the 11159  
election of officers of the ~~subdivision~~ municipal corporation 11160  
proposing to withdraw from the regional transit authority, except 11161  
that the question appearing on the ballot of a municipal 11162  
corporation shall read: 11163

"Shall the territory within the ..... 11164  
(~~Name name of political subdivision~~ municipal corporation to be 11165  
withdrawn) be withdrawn from ..... 11166  
(~~Name name of~~) regional transit authority)?" 11167

For the unincorporated area of a township, the election shall 11168  
be held, canvassed, and certified in the same manner as regular 11169  
elections for the election of officers of the township, except 11170  
that question shall only be presented to electors of the 11171  
unincorporated area of the township and the question appearing on 11172  
the ballot of the unincorporated area of the township shall read: 11173

"Shall the territory of the unincorporated area of ..... 11174  
(name of township to be withdrawn) be withdrawn from ..... (name 11175  
of regional transit authority)?" 11176

The legislative authority of a municipal corporation or board 11177  
of trustees of a township, by vote of two-thirds of all members of 11178  
the legislative authority or board, may adopt a resolution and 11179  
certify that resolution to the board of elections for the combined 11180  
purpose of withdrawing from a regional transit authority as 11181  
provided in this section and levying a property tax pursuant to 11182  
division (XX) of section 5705.19 of the Revised Code for a 11183  
municipal corporation and section 5705.72 of the Revised Code for 11184  
a township. If the questions are combined, the question appearing 11185  
on the ballot shall be as provided in section 5705.252 of the 11186  
Revised Code. 11187

~~If the question is approved by at least a majority of the 11188  
electors voting on the question, the withdrawal is effective six 11189  
months from the date of the certification of its passage. 11190~~

The board of elections to which the resolution was certified 11191  
shall certify the results of the election to the board or 11192  
legislative authority of the subdivision that submitted the 11193  
resolution to withdraw and to the board of trustees of the 11194

regional transit authority from which the subdivision proposed to withdraw. If the question is approved by at least a majority of the electors voting on the question, the municipal corporation's or unincorporated area of the township's membership in the regional transit authority terminates on the thirty-first day of December of the calendar year in which the election is held.

If the question of withdrawing from the regional transit authority is approved, the power of the regional transit authority to levy a tax on taxable property in the affected area of the withdrawing subdivision terminates beginning with the tax year in which the election is held, and no taxes from the levy may be charged for collection against such property for that tax year.

**Sec. 307.05.** As used in this section, "emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

A board of county commissioners may operate an ambulance service organization or emergency medical service organization, or, in counties with a population of forty thousand or less, may operate a nonemergency patient transport service organization, or may enter into a contract with one or more counties, townships, municipal corporations, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners, regardless of whether such counties, townships, municipal corporations, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners are located within or without the state, in order to furnish or obtain the services of ambulance service organizations, to furnish or obtain additional services from ambulance service organizations in times of emergency, to furnish or obtain the services of emergency medical service organizations, or, in counties with a population of forty

thousand or less, to furnish or obtain services of nonemergency 11226  
patient transport service organizations, or may enter into a 11227  
contract with any such entity to furnish or obtain the interchange 11228  
of services from ambulance or emergency medical service 11229  
organizations, or, within counties with a population of forty 11230  
thousand or less, to furnish or obtain the interchange of services 11231  
from nonemergency patient transport service organizations, within 11232  
the territories of the contracting subdivisions. Except in the 11233  
case of a contract with a joint emergency medical services 11234  
district to obtain the services of emergency medical service 11235  
organizations, such contracts shall not be entered into with a 11236  
public agency or nonprofit corporation that receives more than 11237  
half of its operating funds from governmental entities with the 11238  
intention of directly competing with the operation of other 11239  
ambulance service organizations, nonemergency patient transport 11240  
service organizations, or emergency medical service organizations 11241  
in the county unless the public agency or nonprofit corporation is 11242  
awarded the contract after submitting the lowest and best bid to 11243  
the board of county commissioners. Any county wishing to commence 11244  
operation of a nonemergency patient transport service organization 11245  
or wishing to enter into a contract for the first time to furnish 11246  
or obtain services from a nonemergency patient transport service 11247  
organization on or after March 1, 1993, including a county in 11248  
which a private provider has been providing the service, shall 11249  
demonstrate the need for public funding for the service to, and 11250  
obtain approval from, the state board of emergency medical, fire, 11251  
and transportation services or its immediate successor board prior 11252  
to operating or funding the organization. 11253

When such an organization is operated by the board, the 11254  
organization may be administered by the board, by the county 11255  
sheriff, or by another county officer or employee designated by 11256  
the board. All rules, including the determining of reasonable 11257  
rates, necessary for the establishment, operation, and maintenance 11258

of such an organization shall be adopted by the board. 11259

A contract for services of an ambulance service, nonemergency 11260  
patient transport service, or emergency medical service 11261  
organization shall include the terms, conditions, and stipulations 11262  
as agreed to by the parties to the contract. It may provide for a 11263  
fixed annual charge to be paid at the times agreed upon and 11264  
stipulated in the contract, or for compensation based upon a 11265  
stipulated price for each run, call, or emergency or the number of 11266  
persons or pieces of apparatus employed, or the elapsed time of 11267  
service required in such run, call, or emergency, or any 11268  
combination thereof. 11269

**Sec. 307.051.** As used in this section, "emergency medical 11270  
service organization" has the same meaning as in section 4766.01 11271  
of the Revised Code. 11272

A board of county commissioners, by adoption of an 11273  
appropriate resolution, may choose to have the ~~Ohio~~ state board of 11274  
emergency medical, fire, and transportation ~~board~~ services license 11275  
any emergency medical service organization it operates. If a board 11276  
adopts such a resolution, Chapter 4766. of the Revised Code, 11277  
except for sections 4766.06 and 4766.99 of the Revised Code, 11278  
applies to the county emergency medical service organization. All 11279  
rules adopted under the applicable sections of that chapter also 11280  
apply to the organization. A board, by adoption of an appropriate 11281  
resolution, may remove its emergency medical service organization 11282  
from the jurisdiction of the ~~Ohio~~ state board of emergency 11283  
medical, fire, and transportation ~~board~~ services. 11284

**Sec. 307.055.** (A) Subject to the terms and conditions of the 11285  
joint resolution creating it, each joint emergency medical 11286  
services district may furnish ambulance services and emergency 11287  
medical services by one of the following methods: 11288

|   |   |
|---|---|
| (1) By operating an emergency medical service organization as defined in section 4765.01 of the Revised Code;   | 11289<br>11290  |
| (2) By contracting for the operation of one or more facilities pursuant to division (C) or (D) of this section;   | 11291<br>11292  |
| (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;  | 11293<br>11294<br>11295   |
| (4) By providing service through any combination of methods described in divisions (A)(1) to (3) of this section.   | 11296<br>11297  |
| (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. | 11298<br>11299<br>11300<br>11301<br>11302<br>11303<br>11304<br>11305<br>11306<br>11307<br>11308<br>11309<br>11310<br>11311<br>11312 |
| 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.   | 11313<br>11314<br>11315<br>11316<br>11317<br>11318  |
| Expenditures of a district for ambulance service or emergency   | 11319   |

medical service, whether pursuant to contract or otherwise, are 11320  
lawful expenditures, regardless of whether the district or the 11321  
party with which it contracts charges an additional fee to users 11322  
of the service. 11323

(C) The board of trustees may enter into a contract with any 11324  
person, municipal corporation, township, or other political 11325  
subdivision, and any political subdivision may contract with the 11326  
board, for the operation and maintenance of emergency medical 11327  
services facilities regardless of whether the facilities used are 11328  
owned or leased by the district, by another political subdivision, 11329  
or by the contractor. 11330

(D) The district may purchase, lease, and maintain all 11331  
materials, buildings, land, and equipment, including vehicles, the 11332  
board considers necessary for the district. 11333

When the board finds, by resolution, that the district has 11334  
personal property that is not needed for public use, or is 11335  
obsolete or unfit for the use for which it was acquired, the board 11336  
may dispose of the property in the same manner as provided in 11337  
section 307.12 of the Revised Code. 11338

(E) Except in the case of a contract with a board of county 11339  
commissioners for the provision of services of an emergency 11340  
medical service organization, any contract entered into by a joint 11341  
emergency medical services district shall conform to the same 11342  
bidding requirements that apply to county contracts under sections 11343  
307.86 to 307.92 of the Revised Code. 11344

(F) A county participating in a joint district may contribute 11345  
any of its rights or interests in real or personal property, 11346  
including money, and may contribute services to the district. Any 11347  
such contributions shall be made by a written agreement between 11348  
the contributing county and the district, specifying the 11349  
contribution as well as the rights of the participating counties 11350

in the contributed property. Written agreements shall also be 11351  
prepared specifying the rights of participating counties in 11352  
property acquired by the district other than by contribution of a 11353  
participating county. Written agreements required by this division 11354  
may be amended only by written agreement of all parties to the 11355  
original agreement. 11356

(G) A district's board of trustees, by adoption of an 11357  
appropriate resolution, may choose to have the ~~Ohio~~ state board of 11358  
emergency medical, fire, and transportation ~~board~~ services license 11359  
any emergency medical service organization the district operates. 11360  
If a board adopts such a resolution, Chapter 4766. of the Revised 11361  
Code, except for sections 4766.06 and 4766.99 of the Revised Code, 11362  
applies to the district emergency medical service organization. 11363  
All rules adopted under the applicable sections of that chapter 11364  
also apply to the organization. A board, by adoption of an 11365  
appropriate resolution, may remove the district emergency medical 11366  
service organization from the jurisdiction of the ~~Ohio~~ state board 11367  
of emergency medical, fire, and transportation ~~board~~ services. 11368

**Sec. 313.121.** (A) As used in this section, "parent" means 11369  
either parent, except that if one parent has been designated the 11370  
residential parent and legal custodian of the child, "parent" 11371  
means the designated residential parent and legal custodian, and 11372  
if a person other than a parent is the child's legal guardian, 11373  
"parent" means the legal guardian. 11374

(B) If a child under two years of age dies suddenly when in 11375  
apparent good health, the death shall be reported immediately to 11376  
the coroner of the county in which the death occurred, as required 11377  
by section 313.12 of the Revised Code. Except as provided in 11378  
division (C) of this section, the coroner or deputy coroner shall 11379  
perform an autopsy on the child. The autopsy shall be performed in 11380  
accordance with ~~public health council~~ rules adopted by the 11381

director of health under section 313.122 of the Revised Code. The 11382  
coroner or deputy coroner may perform research procedures and 11383  
tests when performing the autopsy. 11384

(C) A coroner or deputy coroner is not required to perform an 11385  
autopsy if the coroner of the county in which the death occurred 11386  
or a court with jurisdiction over the deceased body determines 11387  
under section 313.131 of the Revised Code that an autopsy is 11388  
contrary to the religious beliefs of the child. If the coroner or 11389  
the court makes such a determination, the coroner shall notify the 11390  
health district or department of health with jurisdiction in the 11391  
area in which the child's parent resides. For purposes of this 11392  
division, the religious beliefs of the parents of a child shall be 11393  
considered to be the religious beliefs of the child. 11394

(D) If the child's parent makes a written or verbal request 11395  
for the preliminary results of the autopsy after the results are 11396  
available, the coroner, or a person designated by ~~him~~ the coroner, 11397  
shall give the parent an oral statement of the preliminary 11398  
results. 11399

The coroner, within a reasonable time after the final results 11400  
of the autopsy are reported, shall send written notice of the 11401  
results to the state department of health, the health district or 11402  
department with jurisdiction in the area in which the child's 11403  
parent resides, and, upon the request of a parent of the child, to 11404  
the child's attending physician. Upon the written request of a 11405  
parent of the child and the payment of the transcript fee required 11406  
by section 313.10 of the Revised Code, the coroner shall send 11407  
written notice of the final results to that parent. The notice 11408  
sent to the state department of health shall include all of the 11409  
information specified ~~by rule of the public health council in~~ 11410  
rules adopted under section 313.122 of the Revised Code. 11411

(E) On the occurrence of any of the following, the health 11412  
district or department with jurisdiction in the area in which the 11413

child's parent resides shall offer the parent any counseling or 11414  
other supportive services it has available: 11415

(1) When it learns through any source that an autopsy is 11416  
being performed on a child under two years of age who died 11417  
suddenly when in apparent good health; 11418

(2) When it receives notice that the final result of an 11419  
autopsy performed pursuant to this section concluded that the 11420  
child died of sudden infant death syndrome; 11421

(3) When it is notified by the coroner that, pursuant to 11422  
division (C) of this section, an autopsy was not performed. 11423

(F) When a health district or department receives notice that 11424  
the final result of an autopsy performed pursuant to this section 11425  
concluded that the child died of sudden infant death syndrome or 11426  
that, pursuant to division (C) of this section, an autopsy was not 11427  
performed but sudden infant death syndrome may have been the cause 11428  
of death, it shall offer the child's parent information about 11429  
sudden infant death syndrome. The state department of health shall 11430  
ensure that current information on sudden infant death syndrome is 11431  
available for distribution by health districts and departments. 11432

**Sec. 313.122.** The ~~public~~ director of health council, after 11433  
reviewing and considering any recommendations made by the Ohio 11434  
state coroners association, shall adopt rules in accordance with 11435  
Chapter 119. of the Revised Code establishing a protocol governing 11436  
the performance of autopsies under section 313.121 of the Revised 11437  
Code. The rules shall specify the information derived from an 11438  
autopsy that a coroner is required to report to the state 11439  
department of health. The ~~public health council~~ director shall not 11440  
amend the rules adopted under this section unless it notifies the 11441  
Ohio state coroners association of the proposed changes and 11442  
consults with the association. 11443

**Sec. 313.16.** In counties where no coroner's laboratory has 11444  
been established or where the coroner's laboratory does not have 11445  
the equipment or personnel to follow the protocol established by 11446  
~~rule of in rules adopted by the public director of health council~~ 11447  
~~adopted~~ under section 313.122 of the Revised Code, the coroner may 11448  
request a coroner of a county in which such a laboratory is 11449  
established or that has a laboratory able to follow the ~~public~~ 11450  
~~health council's director's~~ protocol to perform necessary 11451  
laboratory examinations, the cost of which shall be no greater 11452  
than the actual value of the services of technicians and the 11453  
materials used in performing such examination. Money derived from 11454  
the fees paid for these examinations shall be kept in a special 11455  
fund, for the use of the coroner's laboratory, from which fund 11456  
replacements can be made. Such funds shall be used to purchase 11457  
necessary supplies and equipment for the laboratory and to pay any 11458  
associated costs incurred in the administration of this section at 11459  
the coroner's discretion. 11460

**Sec. 329.01.** In each county, except as provided in section 11461  
329.40 of the Revised Code, there shall be a county department of 11462  
job and family services which, when so established, shall be 11463  
governed by this chapter. The department shall consist of a county 11464  
director of job and family services appointed by the board of 11465  
county commissioners, and such assistants and other employees as 11466  
are necessary for the efficient performance of the functions of 11467  
the county department. Before entering upon the discharge of the 11468  
director's official duties, the director shall give a bond, 11469  
conditioned for the faithful performance of those official duties, 11470  
in such sum as fixed by the board. The director may require any 11471  
assistant or employee under the director's jurisdiction to give a 11472  
bond in such sum as determined by the board. All bonds given under 11473  
this section shall be with a surety or bonding company authorized 11474

to do business in this state, conditioned for the faithful 11475  
performance of the duties of such director, assistant, or 11476  
employee. The expense or premium for any bond required by this 11477  
section shall be paid from the appropriation for administrative 11478  
expenses of the department. Such bond shall be deposited with the 11479  
county treasurer and kept in the treasurer's office. 11480

As used in the Revised Code: 11481

(A) "County department of job and family services" means the 11482  
county department of job and family services established under 11483  
this section, including an entity designated a county department 11484  
of job and family services under section 307.981 of the Revised 11485  
Code, or ~~the~~ a joint county department of job and family services 11486  
established under section 329.40 of the Revised Code. 11487

(B) "County director of job and family services" means the 11488  
county director of job and family services appointed under this 11489  
section or under section 329.41 of the Revised Code. 11490

**Sec. 329.40.** (A)(1) The boards of county commissioners of ~~the~~ 11491  
any two or more counties of ~~Hoeking, Ross, and Vinton,~~ by entering 11492  
into a written agreement, may form a joint county department of 11493  
job and family services to perform the duties, provide the 11494  
services, and operate the programs required under this chapter. 11495  
~~The formation of this joint county department of job and family~~ 11496  
~~services is a pilot project.~~ The agreement shall be ratified by 11497  
resolution of the board of county commissioners of each county 11498  
that entered into the agreement. Each board of county 11499  
commissioners that enters into ~~the~~ an agreement shall give notice 11500  
of the agreement to the Ohio department of job and family services 11501  
at least ninety days before the agreement's effective date. The 11502  
agreement shall take effect not earlier than the first day of the 11503  
calendar quarter following the ninety-day notice period. The 11504  
director of job and family services shall adopt, as an internal 11505

management rule under section 111.15 of the Revised Code, the form 11506  
in which the notice shall be given. 11507

(2) The boards of county commissioners of the counties 11508  
forming ~~the~~ a joint county department shall constitute, 11509  
collectively, the board of directors of the joint county 11510  
department of job and family services. On the effective date of 11511  
the agreement, the board of directors shall take control of and 11512  
manage the joint county department subject to this chapter and all 11513  
other sections of the Revised Code that govern the authority and 11514  
responsibilities of a single board of county commissioners in the 11515  
operation of a single county department of job and family 11516  
services. 11517

(B)(1) ~~The~~ An agreement to establish ~~the~~ a joint county 11518  
department shall specify all of the following: 11519

(a) The obligations of each board of county commissioners in 11520  
operating the joint county department, including requiring each 11521  
board to provide state, federal, and county funds to the operation 11522  
of the joint county department and the schedule for provision of 11523  
those funds; 11524

(b) How and which facilities, equipment, and personnel will 11525  
be shared; 11526

(c) Procedures for the division of resources and obligations 11527  
~~should a county~~ if one or more counties withdraw from the joint 11528  
county department, ~~or should~~ the department ~~cease~~ ceases to exist; 11529

(d) Any contributions of participating counties establishing 11530  
the joint county department and the rights of those counties in 11531  
lands or personal property, or rights or interests therein, 11532  
contributed to or otherwise acquired by the joint county 11533  
department. 11534

(2) ~~The~~ An agreement to establish ~~the~~ a joint county 11535

department may set forth any or all of the following: 11536

(a) Quality, timeliness, and other standards to be met by 11537  
each county; 11538

(b) Which family service programs and functions are to be 11539  
included in the joint county department; 11540

(c) Procedures for the operation of the board of directors, 11541  
including procedures governing the frequency of meetings and the 11542  
number of members of the board required to constitute a quorum to 11543  
take action; 11544

(d) Any other procedures or standards necessary for the joint 11545  
county department to perform its duties and operate efficiently. 11546

(C) ~~The~~ An agreement may be amended by a majority vote of the 11547  
board of directors of the joint county department, but no 11548  
amendment shall divest a participating county of any right or 11549  
interest in lands or personal property without its consent. 11550

(D) Costs incurred in operating ~~the~~ a joint county department 11551  
shall be paid from a joint general fund created by the board of 11552  
directors, except as may be otherwise provided in the agreement. 11553

(E) A joint county department established under this section 11554  
is a public office as defined in section 117.01 of the Revised 11555  
Code. 11556

**Sec. 329.41.** (A) The board of directors of ~~the~~ a joint county 11557  
department of job and family services formed under section 329.40 11558  
of the Revised Code shall appoint and fix the compensation of a 11559  
the director of the department. The director shall serve at the 11560  
pleasure of the board of directors. Under the direction and 11561  
control of the board, the director shall have full charge of the 11562  
department as set forth in section 329.02 of the Revised Code for 11563  
the director of a single county department of job and family 11564  
services. 11565

(B) The board of directors may appoint up to three 11566  
administrators to oversee services provided by the joint county 11567  
department. Administrators shall be in the unclassified service. 11568

(C) Employees of ~~the~~ a joint county department of job and 11569  
family services shall be appointed by the director of the joint 11570  
county department and, except as provided in this section, shall 11571  
be in the classified service. The employees of ~~the~~ a joint county 11572  
department shall be considered county employees for the purposes 11573  
of Chapter 124. of the Revised Code and other provisions of state 11574  
law applicable to county employees. Instead of or in addition to 11575  
appointing these employees, ~~the~~ a board of directors may agree to 11576  
use the employees of one or more of the counties that formed ~~the~~ a 11577  
joint county department in the service of the joint county 11578  
department and to share in their compensation in any manner that 11579  
may be agreed upon. 11580

(D) Notwithstanding any other section of the Revised Code, if 11581  
an employee's separation from county service occurs in connection 11582  
with a county joining or withdrawing from ~~the~~ a joint county 11583  
department of job and family services, the board of county 11584  
commissioners that initially appointed the employee shall have no 11585  
obligation to pay any compensation with respect to unused vacation 11586  
or sick leave accrued to the credit of the employee if the 11587  
employee accepts employment with the joint county department or a 11588  
withdrawing county. At the effective time of separation from 11589  
county service, the joint county department or the withdrawing 11590  
county, as the case may be, shall assume such unused vacation and 11591  
sick leave accrued to the employee's credit. 11592

**Sec. 329.42.** The county auditor of the county with the 11593  
largest population that formed ~~the~~ a joint county department of 11594  
job and family services under section 329.40 of the Revised Code 11595  
shall serve as the fiscal officer of the joint county department, 11596

and the county treasurer of that county shall serve as the 11597  
treasurer of the joint county department, unless the counties that 11598  
formed the joint county department agree to appoint the county 11599  
auditor and county treasurer of another county that formed the 11600  
department. In either case, these county officers shall perform 11601  
any applicable duties for the joint county department as each 11602  
typically performs for the county of which the individual is an 11603  
officer. The board of directors of the joint county department may 11604  
pay to that county any amount agreed upon by the board of 11605  
directors and the board of county commissioners of that county to 11606  
reimburse the county for the costs that are properly allocable to 11607  
the service of its officers as fiscal officer and treasurer of the 11608  
joint county department. 11609

**Sec. 329.43.** (A) The prosecuting attorney of the county with 11610  
the largest population that formed ~~the~~ a joint county department 11611  
of job and family services under section 329.40 of the Revised 11612  
Code shall serve as the legal advisor of the board of directors of 11613  
the joint county department, unless the counties that formed the 11614  
joint county department agree to appoint the prosecuting attorney 11615  
of another county that formed the joint county department as legal 11616  
advisor of the board. The board of directors may pay to the county 11617  
of the prosecuting attorney who is the legal advisor of the board 11618  
any amount agreed upon by the board of directors and the board of 11619  
county commissioners of that county to reimburse that county for 11620  
the costs that are properly allocable to the service of its 11621  
prosecuting attorney as the legal advisor of the board of 11622  
directors. 11623

(B) The prosecuting attorney shall provide such services to 11624  
the board of directors as are required or authorized to be 11625  
provided to other county boards under Chapter 309. of the Revised 11626  
Code. 11627

(C)(1) If the board of directors of ~~the~~ a joint county 11628  
department wishes to employ other legal counsel on an annual basis 11629  
to serve as the board's legal advisor in place of the prosecuting 11630  
attorney, the board may do so with the agreement of the 11631  
prosecuting attorney. If the prosecuting attorney does not agree, 11632  
the board of directors may apply to the court of common pleas of 11633  
the county with the largest population that formed the joint 11634  
county department for authority to employ other legal counsel on 11635  
an annual basis. 11636

(2) If the board of directors of ~~the~~ a joint county 11637  
department wishes to employ other legal counsel to represent or 11638  
advise the board on a particular matter in place of the 11639  
prosecuting attorney, the board may do so with the agreement of 11640  
the prosecuting attorney. If the prosecuting attorney does not 11641  
agree, the board of directors may apply to the court of common 11642  
pleas of the county with the largest population that formed the 11643  
joint county department for authority to employ other legal 11644  
counsel for that particular matter. 11645

(3) The prosecuting attorney who is the legal advisor of the 11646  
board of directors shall be given notice of an application filed 11647  
under division (C)(1) or (2) of this section and shall be afforded 11648  
an opportunity to be heard. After the hearing, the court may 11649  
authorize the board of directors to employ other legal counsel on 11650  
an annual basis or for a particular matter only if it finds that 11651  
the prosecuting attorney refuses or is unable to provide the legal 11652  
services that the board requires. If the board of directors 11653  
employs other legal counsel on an annual basis or for a particular 11654  
matter, the board may not require the prosecuting attorney to 11655  
provide legal advice, opinions, or other legal services during the 11656  
period or to the extent that the board employs the other legal 11657  
counsel. 11658

**Sec. 329.44.** (A) ~~A~~ The board of directors of ~~the~~ a joint 11659  
county department of job and family services formed under section 11660  
329.40 of the Revised Code may acquire, by purchase or lease, real 11661  
property, equipment, and systems to improve, maintain, or operate 11662  
family service programs within the territory served by the joint 11663  
county department. A board of county commissioners may acquire, 11664  
within its county, real property or any estate, interest, or right 11665  
therein, by appropriation or any other method, for use by the 11666  
joint county department in connection with its provision of 11667  
services. Appropriation proceedings shall be conducted in 11668  
accordance with Chapter 163. of the Revised Code. 11669

(B) A board of county commissioners that formed ~~the~~ a joint 11670  
county department may contribute lands or rights or interests 11671  
therein, money, other personal property or rights or interests 11672  
therein, or services to the joint county department. The board of 11673  
county commissioners may issue bonds or bond anticipation notes of 11674  
the county to pay the cost of acquiring real property and of 11675  
constructing, modifying, or upgrading a facility to house 11676  
employees of the joint county department. The board of directors 11677  
of ~~the~~ a joint county department may reimburse the county for the 11678  
use of such a facility if it is required to do so under the 11679  
agreement entered into under section 329.40 of the Revised Code. 11680

**Sec. 329.45.** (A)(1) A board of county commissioners that has 11681  
entered into an agreement under section 329.40 of the Revised Code 11682  
establishing a joint county department of job and family services 11683  
may ~~pass~~ adopt a resolution requesting to withdraw from the 11684  
agreement ~~establishing the joint county department of job and~~ 11685  
~~family services formed under section 329.40 of the Revised Code.~~ 11686  
Upon adopting such a resolution, the board of county commissioners 11687  
shall deliver a copy of the resolution to the board of directors 11688  
of the joint county department. Upon receiving the resolution, the 11689

board of directors shall deliver written notice of the requested 11690  
withdrawal to the boards of county commissioners of the other 11691  
county or counties that formed the joint county department. ~~Within~~ 11692  
Not later than thirty days after receiving the notice, each of 11693  
those boards of county commissioners shall adopt a resolution 11694  
either accepting the withdrawal or objecting to the withdrawal, 11695  
and shall deliver a copy of the resolution to the board of 11696  
directors. 11697

(2) If any of the boards of county commissioners that formed 11698  
~~the a~~ joint county department adopts a resolution objecting to the 11699  
requested withdrawal, the board of directors shall deliver written 11700  
notice of the objection to each other board of county 11701  
commissioners of the counties that formed the joint county 11702  
department, including the board of county commissioners of the 11703  
county proposing withdrawal, ~~and shall schedule. Not later than~~ 11704  
thirty days after sending the notice, the board of directors shall 11705  
hold a meeting ~~of the board of directors to be held within thirty~~ 11706  
~~days~~ to discuss the objection. After the meeting, the board of 11707  
directors shall determine whether the county requesting withdrawal 11708  
desires to proceed with the withdrawal and, if the county does, 11709  
the board of directors shall accept the withdrawal. Not later than 11710  
thirty days after the determination was made, the board of 11711  
directors shall deliver written notice of the withdrawal to the 11712  
boards of county commissioners that formed the joint county 11713  
department and to the board of county commissioners that requested 11714  
withdrawal, and shall commence the withdrawal process under this 11715  
section. 11716

(3) If all of the boards of county commissioners that formed 11717  
~~the a~~ joint county department, except for the board of county 11718  
commissioners requesting the withdrawal, each adopt a resolution 11719  
accepting the withdrawal, the board of directors shall declare the 11720  
withdrawal to be accepted. Not later than thirty days after the 11721

declaration, the board of directors shall deliver written notice 11722  
of the withdrawal to all of the boards of county commissioners 11723  
that formed the joint county department, including the board of 11724  
county commissioners of the county requesting withdrawal, and 11725  
shall commence the withdrawal process under this section. 11726

(4) The board of directors shall give notice to the Ohio 11727  
department of job and family services of the withdrawal of a 11728  
county under this section at least ninety days before the 11729  
withdrawal becomes final. The director of job and family services 11730  
shall adopt, as an internal management rule under section 111.15 11731  
of the Revised Code, the form in which the notice shall be given. 11732

(5) If a county requesting to withdraw decides to remain as a 11733  
party to the agreement establishing ~~the~~ a joint county department, 11734  
the board of county commissioners of that county shall rescind its 11735  
original resolution requesting withdrawal and shall deliver a copy 11736  
of the rescission to the board of directors of the joint county 11737  
department ~~within~~ not later than thirty days after adopting the 11738  
rescission. 11739

(B) If a county withdraws from ~~the~~ an agreement under this 11740  
section, the board of directors shall ascertain, apportion, and 11741  
order a division of the funds on hand, credits, and real and 11742  
personal property of the joint county department, either in money 11743  
or in kind, on an equitable basis between the joint county 11744  
department and the withdrawing county according to the agreement 11745  
entered into under section 329.40 of the Revised Code and 11746  
consistent with any prior contributions of the withdrawing county 11747  
to the joint county department. Any debt incurred individually 11748  
shall remain the responsibility of that county, unless otherwise 11749  
specified in the agreement establishing the joint county 11750  
department. 11751

(C) A withdrawal becomes final not earlier than the first day 11752  
of the calendar quarter following the ninety-day notice period 11753

required by division (A)(4) of this section. On and after that 11754  
day, the withdrawing county ceases to be a part of the joint 11755  
county department, and its members of the board of directors shall 11756  
cease to be members of that board. 11757

(D) If the withdrawal of one or more counties would leave 11758  
only one county participating in ~~the~~ a joint county department, 11759  
the board of directors shall ascertain, apportion, and order a 11760  
final division of the funds on hand, credits, and real and 11761  
personal property of the joint county department. On and after the 11762  
day on which the latest withdrawal of a county becomes final, the 11763  
joint county department is dissolved. When ~~the~~ a joint county 11764  
department is dissolved and any indebtedness remains unpaid, the 11765  
boards of county commissioners that formed the joint county 11766  
department shall pay the indebtedness of the joint county 11767  
department in the amounts established by the agreement at the time 11768  
the indebtedness was incurred. 11769

**Sec. 329.46.** (A) A board of county commissioners that formed 11770  
~~the~~ a joint county department of job and family services under 11771  
section 329.40 of the Revised Code, by adopting a resolution, may 11772  
propose the removal of another county that formed the joint county 11773  
department. The board of county commissioners shall send a copy of 11774  
such a resolution to the board of directors of the joint county 11775  
department. ~~Within~~ Not later than ten days after receiving the 11776  
copy of the resolution, the board of directors shall send a copy 11777  
of the resolution to each board of county commissioners that 11778  
formed the joint county department, except the board of county 11779  
commissioners proposing removal. ~~Within~~ Not later than thirty days 11780  
after sending a copy of the resolution, the board of directors 11781  
shall hold a hearing at which any county commissioner whose county 11782  
formed the joint county department may present arguments for or 11783  
against the removal. At the hearing, approval or disapproval of 11784  
the removal shall be determined by a two-thirds vote of the county 11785

commissioners of the counties that formed the joint county 11786  
department, with the exception of the county commissioners of the 11787  
county proposed for removal. 11788

(B) The board of directors of ~~the~~ a joint county department 11789  
of job and family services, by adopting a resolution by a majority 11790  
vote of the members of the board, may propose removal of a county 11791  
that formed the joint county department. ~~Within~~ Not later than ten 11792  
days after adopting such a resolution, the board of directors 11793  
shall send a copy of the resolution to the board of county 11794  
commissioners of each county that formed the joint county 11795  
department, including the board of county commissioners of the 11796  
county proposed for removal. ~~Within~~ Not later than thirty days 11797  
after sending the copy of the resolution, the board of directors 11798  
shall hold a hearing at which any member of the board may present 11799  
arguments for or against the removal. At this hearing, approval or 11800  
disapproval of the resolution proposing removal shall be 11801  
determined by a two-thirds vote of the members of the board of 11802  
directors, with the exception of the board members who represent 11803  
the county proposed for removal. 11804

(C) If removal of a county is approved under this section, 11805  
the board of directors shall give written notice of the approval 11806  
to the Ohio department of job and family services at least ninety 11807  
days before the removal takes effect. The director of job and 11808  
family services shall adopt, as an internal management rule under 11809  
section 111.15 of the Revised Code, the form in which the notice 11810  
shall be given. 11811

(D) Removal of a county under this section shall take effect 11812  
not earlier than the first day of the calendar quarter following 11813  
the ninety-day notice period required by division (C) of this 11814  
section. 11815

(E) If, at any time, the county proposed for removal under 11816

division (A) or (B) of this section notifies the board of 11817  
directors, by a majority vote of that county's board of county 11818  
commissioners, that it chooses to withdraw from the joint county 11819  
department, the withdrawal procedure established under section 11820  
329.45 of the Revised Code shall be put immediately into motion. 11821

**Sec. 330.04.** If, for the purpose of Chapter 6301. of the 11822  
Revised Code, a county is the type of local area defined in 11823  
division (A)(2) of section 6301.01 of the Revised Code, the board 11824  
of county commissioners serving the county shall adopt a 11825  
resolution establishing or designating a workforce development 11826  
agency to provide workforce development activities for the county. 11827  
The board shall adopt the resolution not later than July 1, 2000. 11828

The board may establish or designate any of the following as 11829  
the workforce development agency: 11830

(A) The county department of job and family services; 11831

(B) A separate agency under the direct control of the board 11832  
and administered by an official appointed by the board; 11833

(C) An entity serving the county on ~~the effective date of~~ 11834  
~~this section~~ March 14, 2000, in a capacity similar to the capacity 11835  
in which a workforce development agency is to serve the county on 11836  
and after ~~the effective date of this section~~ March 14, 2000; 11837

(D) An entity located in or outside the county that provides 11838  
workforce development activities in the county on ~~the effective~~ 11839  
~~date of this section~~ March 14, 2000; 11840

(E) Any private or government entity designated under section 11841  
307.981 of the Revised Code; 11842

(F) ~~The~~ A joint county department of job and family services 11843  
established under section 329.40 of the Revised Code. 11844

**Sec. 339.091.** Before the board of county commissioners, board 11845

of county hospital trustees, or county hospital commission may 11846  
enter into an initial agreement for the acquisition, operation, or 11847  
lease under section 140.03, 140.05, 339.09, or 339.14 of the 11848  
Revised Code of a county hospital operated by a board of county 11849  
hospital trustees under section 339.06 of the Revised Code, the 11850  
board of county commissioners shall review the agreement. If it 11851  
finds that the agreement will meet the needs of the residents of 11852  
the county for hospital service, the board of county commissioners 11853  
may adopt a resolution authorizing the board of county 11854  
commissioners, board of county hospital trustees, or county 11855  
hospital commission to enter into the agreement. On adoption of 11856  
the resolution, the board of county commissioners, board of county 11857  
hospital trustees, or county hospital commission may enter into 11858  
the agreement. 11859

The requirements of this section do not apply to an agreement 11860  
if one or more hospitals classified as general hospitals by the 11861  
~~public~~ director of health council under section 3701.07 of the 11862  
Revised Code are operating in the same county as the county 11863  
hospital. 11864

**Sec. 340.03.** (A) Subject to rules issued by the director of 11865  
mental health after consultation with relevant constituencies as 11866  
required by division (L) of section 5119.06 of the Revised Code, 11867  
with regard to mental health services, the board of alcohol, drug 11868  
addiction, and mental health services shall: 11869

(1) Serve as the community mental health planning agency for 11870  
the county or counties under its jurisdiction, and in so doing it 11871  
shall: 11872

(a) Evaluate the need for facilities and community mental 11873  
health services; 11874

(b) In cooperation with other local and regional planning and 11875  
funding bodies and with relevant ethnic organizations, assess the 11876

community mental health needs, set priorities, and develop plans 11877  
for the operation of facilities and community mental health 11878  
services; 11879

(c) In accordance with guidelines issued by the director of 11880  
mental health after consultation with board representatives, 11881  
annually develop and submit to the department of mental health a 11882  
community mental health plan listing community mental health 11883  
needs, including the needs of all residents of the district now 11884  
residing in state mental institutions and severely mentally 11885  
disabled adults, children, and adolescents; all children subject 11886  
to a determination made pursuant to section 121.38 of the Revised 11887  
Code; and all the facilities and community mental health services 11888  
that are or will be in operation or provided during the period for 11889  
which the plan will be in operation in the service district to 11890  
meet such needs. 11891

The plan shall include, but not be limited to, a statement of 11892  
which of the services listed in section 340.09 of the Revised Code 11893  
the board intends to make available. The board must include crisis 11894  
intervention services for individuals in an emergency situation in 11895  
the plan and explain how the board intends to make such services 11896  
available. The plan must also include a statement of the inpatient 11897  
and community-based services the board proposes that the 11898  
department operate, an assessment of the number and types of 11899  
residential facilities needed, such other information as the 11900  
department requests, and a budget for moneys the board expects to 11901  
receive. The department shall approve or disapprove the plan, in 11902  
whole or in part, according to the criteria developed pursuant to 11903  
section 5119.61 of the Revised Code. The department's statement of 11904  
approval or disapproval shall specify the inpatient and the 11905  
community-based services that the department will operate for the 11906  
board. Eligibility for state and federal funding shall be 11907  
contingent upon an approved plan or relevant part of a plan. 11908

If a board determines that it is necessary to amend a plan or an allocation request that has been approved under division (A)(1)(c) of this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall implement the plan approved by the department.

(d) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community mental health agency as defined in section 5122.01 of the Revised Code, or ~~from~~ alleging abuse or neglect of a person with mental illness or severe mental disability residing in a residential facility licensed under section 5119.22 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.611 of the Revised Code, cooperate with the director of mental health in visiting and evaluating whether the services of a community mental health

agency satisfy the certification standards established by rules 11941  
adopted under that section; 11942

(4) In accordance with criteria established under division 11943  
(E) of section 5119.61 of the Revised Code, review and evaluate 11944  
the quality, effectiveness, and efficiency of services provided 11945  
through its community mental health plan and submit its findings 11946  
and recommendations to the department of mental health; 11947

(5) In accordance with section 5119.22 of the Revised Code, 11948  
review ~~applications~~ an application for a residential facility 11949  
~~licenses~~ license and ~~recommend~~ provide to the department of mental 11950  
health ~~approval or disapproval of applications~~ any information 11951  
about the applicant or facility that the board would like the 11952  
department to consider in reviewing the application; 11953

(6) Audit, in accordance with rules adopted by the auditor of 11954  
state pursuant to section 117.20 of the Revised Code, at least 11955  
annually all programs and services provided under contract with 11956  
the board. In so doing, the board may contract for or employ the 11957  
services of private auditors. A copy of the fiscal audit report 11958  
shall be provided to the director of mental health, the auditor of 11959  
state, and the county auditor of each county in the board's 11960  
district. 11961

(7) Recruit and promote local financial support for mental 11962  
health programs from private and public sources; 11963

(8)(a) Enter into contracts with public and private 11964  
facilities for the operation of facility services included in the 11965  
board's community mental health plan and enter into contracts with 11966  
public and private community mental health agencies for the 11967  
provision of community mental health services that are listed in 11968  
section 340.09 of the Revised Code and included in the board's 11969  
community mental health plan. The board may not contract with a 11970  
community mental health agency to provide community mental health 11971

services included in the board's community mental health plan 11972  
unless the services are certified by the director of mental health 11973  
under section 5119.611 of the Revised Code. Section 307.86 of the 11974  
Revised Code does not apply to contracts entered into under this 11975  
division. In contracting with a community mental health agency, a 11976  
board shall consider the cost effectiveness of services provided 11977  
by that agency and the quality and continuity of care, and may 11978  
review cost elements, including salary costs, of the services to 11979  
be provided. A utilization review process shall be established as 11980  
part of the contract for services entered into between a board and 11981  
a community mental health agency. The board may establish this 11982  
process in a way that is most effective and efficient in meeting 11983  
local needs. Until July 1, 2012, a contract with a community 11984  
mental health agency or facility, as defined in section 5111.023 11985  
of the Revised Code, to provide services listed in division (B) of 11986  
that section shall provide for the agency or facility to be paid 11987  
in accordance with the contract entered into between the 11988  
departments of job and family services and mental health under 11989  
section 5111.91 of the Revised Code and any rules adopted under 11990  
division (A) of section 5119.61 of the Revised Code. 11991

If either the board or a facility or community mental health 11992  
agency with which the board contracts under division (A)(8)(a) of 11993  
this section proposes not to renew the contract or proposes 11994  
substantial changes in contract terms, the other party shall be 11995  
given written notice at least one hundred twenty days before the 11996  
expiration date of the contract. During the first sixty days of 11997  
this one hundred twenty-day period, both parties shall attempt to 11998  
resolve any dispute through good faith collaboration and 11999  
negotiation in order to continue to provide services to persons in 12000  
need. If the dispute has not been resolved sixty days before the 12001  
expiration date of the contract, either party may ~~request that~~ 12002  
notify the department of mental health of the unresolved dispute. 12003  
The director may require both parties to submit the dispute to a 12004

third party with the cost to be shared by the board and the 12005  
facility or community mental health agency. The third party shall 12006  
issue to the board ~~and, the~~ facility or agency, ~~and the department~~ 12007  
recommendations on how the dispute may be resolved twenty days 12008  
prior to the expiration date of the contract, unless both parties 12009  
agree to a time extension. The director shall adopt rules 12010  
establishing the procedures of this dispute resolution process. 12011

(b) With the prior approval of the director of mental health, 12012  
a board may operate a facility or provide a community mental 12013  
health service as follows, if there is no other qualified private 12014  
or public facility or community mental health agency that is 12015  
immediately available and willing to operate such a facility or 12016  
provide the service: 12017

(i) In an emergency situation, any board may operate a 12018  
facility or provide a community mental health service in order to 12019  
provide essential services for the duration of the emergency; 12020

(ii) In a service district with a population of at least one 12021  
hundred thousand but less than five hundred thousand, a board may 12022  
operate a facility or provide a community mental health service 12023  
for no longer than one year; 12024

(iii) In a service district with a population of less than 12025  
one hundred thousand, a board may operate a facility or provide a 12026  
community mental health service for no longer than one year, 12027  
except that such a board may operate a facility or provide a 12028  
community mental health service for more than one year with the 12029  
prior approval of the director and the prior approval of the board 12030  
of county commissioners, or of a majority of the boards of county 12031  
commissioners if the district is a joint-county district. 12032

The director shall not give a board approval to operate a 12033  
facility or provide a community mental health service under 12034  
division (A)(8)(b)(ii) or (iii) of this section unless the 12035

director determines that it is not feasible to have the department 12036  
operate the facility or provide the service. 12037

The director shall not give a board approval to operate a 12038  
facility or provide a community mental health service under 12039  
division (A)(8)(b)(iii) of this section unless the director 12040  
determines that the board will provide greater administrative 12041  
efficiency and more or better services than would be available if 12042  
the board contracted with a private or public facility or 12043  
community mental health agency. 12044

The director shall not give a board approval to operate a 12045  
facility previously operated by a person or other government 12046  
entity unless the board has established to the director's 12047  
satisfaction that the person or other government entity cannot 12048  
effectively operate the facility or that the person or other 12049  
government entity has requested the board to take over operation 12050  
of the facility. The director shall not give a board approval to 12051  
provide a community mental health service previously provided by a 12052  
community mental health agency unless the board has established to 12053  
the director's satisfaction that the agency cannot effectively 12054  
provide the service or that the agency has requested the board 12055  
take over providing the service. 12056

The director shall review and evaluate a board's operation of 12057  
a facility and provision of community mental health service under 12058  
division (A)(8)(b) of this section. 12059

Nothing in division (A)(8)(b) of this section authorizes a 12060  
board to administer or direct the daily operation of any facility 12061  
or community mental health agency, but a facility or agency may 12062  
contract with a board to receive administrative services or staff 12063  
direction from the board under the direction of the governing body 12064  
of the facility or agency. 12065

(9) Approve fee schedules and related charges or adopt a unit 12066

cost schedule or other methods of payment for contract services 12067  
provided by community mental health agencies in accordance with 12068  
guidelines issued by the department as necessary to comply with 12069  
state and federal laws pertaining to financial assistance; 12070

(10) Submit to the director and the county commissioners of 12071  
the county or counties served by the board, and make available to 12072  
the public, an annual report of the programs under the 12073  
jurisdiction of the board, including a fiscal accounting; 12074

(11) Establish, to the extent resources are available, a 12075  
community support system, which provides for treatment, support, 12076  
and rehabilitation services and opportunities. The essential 12077  
elements of the system include, but are not limited to, the 12078  
following components in accordance with section 5119.06 of the 12079  
Revised Code: 12080

(a) To locate persons in need of mental health services to 12081  
inform them of available services and benefits mechanisms; 12082

(b) Assistance for clients to obtain services necessary to 12083  
meet basic human needs for food, clothing, shelter, medical care, 12084  
personal safety, and income; 12085

(c) Mental health care, including, but not limited to, 12086  
outpatient, partial hospitalization, and, where appropriate, 12087  
inpatient care; 12088

(d) Emergency services and crisis intervention; 12089

(e) Assistance for clients to obtain vocational services and 12090  
opportunities for jobs; 12091

(f) The provision of services designed to develop social, 12092  
community, and personal living skills; 12093

(g) Access to a wide range of housing and the provision of 12094  
residential treatment and support; 12095

(h) Support, assistance, consultation, and education for 12096

families, friends, consumers of mental health services, and 12097  
others; 12098

(i) Recognition and encouragement of families, friends, 12099  
neighborhood networks, especially networks that include racial and 12100  
ethnic minorities, churches, community organizations, and 12101  
meaningful employment as natural supports for consumers of mental 12102  
health services; 12103

(j) Grievance procedures and protection of the rights of 12104  
consumers of mental health services; 12105

(k) Case management, which includes continual individualized 12106  
assistance and advocacy to ensure that needed services are offered 12107  
and procured. 12108

(12) Designate the treatment program, agency, or facility for 12109  
each person involuntarily committed to the board pursuant to 12110  
Chapter 5122. of the Revised Code and authorize payment for such 12111  
treatment. The board shall provide the least restrictive and most 12112  
appropriate alternative that is available for any person 12113  
involuntarily committed to it and shall assure that the services 12114  
listed in section 340.09 of the Revised Code are available to 12115  
severely mentally disabled persons residing within its service 12116  
district. The board shall establish the procedure for authorizing 12117  
payment for services, which may include prior authorization in 12118  
appropriate circumstances. The board may provide for services 12119  
directly to a severely mentally disabled person when life or 12120  
safety is endangered and when no community mental health agency is 12121  
available to provide the service. 12122

(13) Establish a method for evaluating referrals for 12123  
involuntary commitment and affidavits filed pursuant to section 12124  
5122.11 of the Revised Code in order to assist the probate 12125  
division of the court of common pleas in determining whether there 12126  
is probable cause that a respondent is subject to involuntary 12127

hospitalization and what alternative treatment is available and 12128  
appropriate, if any; 12129

(14) Ensure that apartments or rooms built, subsidized, 12130  
renovated, rented, owned, or leased by the board or a community 12131  
mental health agency have been approved as meeting minimum fire 12132  
safety standards and that persons residing in the rooms or 12133  
apartments are receiving appropriate and necessary services, 12134  
including culturally relevant services, from a community mental 12135  
health agency. This division does not apply to residential 12136  
facilities licensed pursuant to section 5119.22 of the Revised 12137  
Code. 12138

(15) Establish a mechanism for involvement of consumer 12139  
recommendation and advice on matters pertaining to mental health 12140  
services in the alcohol, drug addiction, and mental health service 12141  
district; 12142

(16) Perform the duties ~~under section 5119.88 of the Revised~~ 12143  
~~Code~~ required by rules adopted under section 5119.61 of the 12144  
Revised Code regarding referrals by the board or mental health 12145  
agencies under contract with the board of individuals with mental 12146  
illness or severe mental disability to ~~adult-care~~ residential 12147  
facilities as defined in division (A)(9)(b) of section 5119.22 of 12148  
the Revised Code and effective arrangements for ongoing mental 12149  
health services for the individuals. The board is accountable in 12150  
the manner specified in the rules for ensuring that the ongoing 12151  
mental health services are effectively arranged for the 12152  
individuals. 12153

(B) The board shall establish such rules, operating 12154  
procedures, standards, and bylaws, and perform such other duties 12155  
as may be necessary or proper to carry out the purposes of this 12156  
chapter. 12157

(C) A board of alcohol, drug addiction, and mental health 12158

services may receive by gift, grant, devise, or bequest any 12159  
moneys, lands, or property for the benefit of the purposes for 12160  
which the board is established, and may hold and apply it 12161  
according to the terms of the gift, grant, or bequest. All money 12162  
received, including accrued interest, by gift, grant, or bequest 12163  
shall be deposited in the treasury of the county, the treasurer of 12164  
which is custodian of the alcohol, drug addiction, and mental 12165  
health services funds to the credit of the board and shall be 12166  
available for use by the board for purposes stated by the donor or 12167  
grantor. 12168

(D) No board member or employee of a board of alcohol, drug 12169  
addiction, and mental health services shall be liable for injury 12170  
or damages caused by any action or inaction taken within the scope 12171  
of the board member's official duties or the employee's 12172  
employment, whether or not such action or inaction is expressly 12173  
authorized by this section, section 340.033, or any other section 12174  
of the Revised Code, unless such action or inaction constitutes 12175  
willful or wanton misconduct. Chapter 2744. of the Revised Code 12176  
applies to any action or inaction by a board member or employee of 12177  
a board taken within the scope of the board member's official 12178  
duties or employee's employment. For the purposes of this 12179  
division, the conduct of a board member or employee shall not be 12180  
considered willful or wanton misconduct if the board member or 12181  
employee acted in good faith and in a manner that the board member 12182  
or employee reasonably believed was in or was not opposed to the 12183  
best interests of the board and, with respect to any criminal 12184  
action or proceeding, had no reasonable cause to believe the 12185  
conduct was unlawful. 12186

(E) The meetings held by any committee established by a board 12187  
of alcohol, drug addiction, and mental health services shall be 12188  
considered to be meetings of a public body subject to section 12189  
121.22 of the Revised Code. 12190

**Sec. 340.05.** A community mental health agency that receives a 12191  
complaint ~~under section 5119.87 of the Revised Code~~ alleging abuse 12192  
or neglect of an individual with mental illness or severe mental 12193  
disability who resides in ~~an adult care~~ a residential facility as 12194  
defined in division (A)(9)(b) of section 5119.22 of the Revised 12195  
Code shall report the complaint to the board of alcohol, drug 12196  
addiction, and mental health services serving the alcohol, drug 12197  
addiction, and mental health service district in which the ~~adult~~ 12198  
~~care~~ residential facility is located. A board of alcohol, drug 12199  
addiction, and mental health services that receives such a 12200  
complaint or a report from a community mental health agency of 12201  
such a complaint shall report the complaint to the director of 12202  
mental health for the purpose of the director conducting an 12203  
investigation under section ~~5119.87~~ 5119.22 of the Revised Code. 12204  
The board may enter the ~~adult care~~ facility with or without the 12205  
director and, if the health and safety of a resident is in 12206  
immediate danger, take any necessary action to protect the 12207  
resident. The board's action shall not violate any resident's 12208  
rights ~~under section 5119.81 of the Revised Code and~~ specified in 12209  
rules adopted by the department of mental health under ~~sections~~ 12210  
~~5119.70 to 5119.88~~ section 5119.22 of the Revised Code. The board 12211  
shall immediately report to the director regarding the board's 12212  
actions under this section. 12213

**Sec. 340.091.** Each board of alcohol, drug addiction, and 12214  
mental health services shall contract with a community mental 12215  
health agency under division (A)(7)(a) of section 340.03 of the 12216  
Revised Code for the agency to do all of the following in 12217  
accordance with rules adopted under section 5119.61 of the Revised 12218  
Code for an individual referred to the agency under division 12219  
~~(C)~~(D)(2) of section 5119.69 of the Revised Code: 12220

(A) Assess the individual ~~to determine whether to recommend~~ 12221

~~that a residential state supplement administrative agency 12222~~  
~~designated under section 5119.69 of the Revised Code determine 12223~~  
and, if the agency determines that the environment in which the 12224  
individual will be living while receiving residential state 12225  
supplement payments is appropriate for the individual's needs ~~and,~~ 12226  
~~if it determines the environment is appropriate,~~ issue the a 12227  
recommendation to the referring residential state supplement 12228  
administrative agency that the referring agency should conclude 12229  
that the living environment is appropriate when it makes its 12230  
determination regarding the appropriateness of the environment; 12231

(B) Provide ongoing monitoring to ensure that services 12232  
provided under section 340.09 of the Revised Code are available to 12233  
the individual; 12234

(C) Provide discharge planning to ensure the individual's 12235  
earliest possible transition to a less restrictive environment. 12236

**Sec. 505.37.** (A) The board of township trustees may establish 12237  
all necessary rules to guard against the occurrence of fires and 12238  
to protect the property and lives of the citizens against damage 12239  
and accidents, and may, with the approval of the specifications by 12240  
the prosecuting attorney or, if the township has adopted limited 12241  
home rule government under Chapter 504. of the Revised Code, with 12242  
the approval of the specifications by the township's law director, 12243  
purchase, lease, lease with an option to purchase, or otherwise 12244  
provide any fire apparatus, mechanical resuscitators, or other 12245  
equipment, appliances, materials, fire hydrants, and water supply 12246  
for fire-fighting purposes that seems advisable to the board. The 12247  
board shall provide for the care and maintenance of fire 12248  
equipment, and, for these purposes, may purchase, lease, lease 12249  
with an option to purchase, or construct and maintain necessary 12250  
buildings, and it may establish and maintain lines of fire-alarm 12251  
communications within the limits of the township. The board may 12252

employ one or more persons to maintain and operate fire-fighting 12253  
equipment, or it may enter into an agreement with a volunteer fire 12254  
company for the use and operation of fire-fighting equipment. The 12255  
board may compensate the members of a volunteer fire company on 12256  
any basis and in any amount that it considers equitable. 12257  
12258

When the estimated cost to purchase fire apparatus, 12259  
mechanical resuscitators, other equipment, appliances, materials, 12260  
fire hydrants, buildings, or fire-alarm communications equipment 12261  
or services exceeds fifty thousand dollars, the contract shall be 12262  
let by competitive bidding. When competitive bidding is required, 12263  
the board shall advertise once a week for not less than two 12264  
consecutive weeks in a newspaper of general circulation within the 12265  
township. The board may also cause notice to be inserted in trade 12266  
papers or other publications designated by it or to be distributed 12267  
by electronic means, including posting the notice on the board's 12268  
internet web site. If the board posts the notice on its web site, 12269  
it may eliminate the second notice otherwise required to be 12270  
published in a newspaper of general circulation within the 12271  
township, provided that the first notice published in such 12272  
newspaper meets all of the following requirements: 12273

(1) It is published at least two weeks before the opening of 12274  
bids. 12275

(2) It includes a statement that the notice is posted on the 12276  
board's internet web site. 12277

(3) It includes the internet address of the board's internet 12278  
web site. 12279

(4) It includes instructions describing how the notice may be 12280  
accessed on the board's internet web site. 12281

The advertisement shall include the time, date, and place 12282  
where the clerk of the township, or the clerk's designee, will 12283

read bids publicly. The time, date, and place of bid openings may 12284  
be extended to a later date by the board of township trustees, 12285  
provided that written or oral notice of the change shall be given 12286  
to all persons who have received or requested specifications not 12287  
later than ninety-six hours prior to the original time and date 12288  
fixed for the opening. The board may reject all the bids or accept 12289  
the lowest and best bid, provided that the successful bidder meets 12290  
the requirements of section 153.54 of the Revised Code when the 12291  
contract is for the construction, demolition, alteration, repair, 12292  
or reconstruction of an improvement. 12293

(B) The boards of township trustees of any two or more 12294  
townships, or the legislative authorities of any two or more 12295  
political subdivisions, or any combination of these, may, through 12296  
joint action, unite in the joint purchase, lease, lease with an 12297  
option to purchase, maintenance, use, and operation of 12298  
fire-fighting equipment, or for any other purpose designated in 12299  
sections 505.37 to 505.42 of the Revised Code, and may prorate the 12300  
expense of the joint action on any terms that are mutually agreed 12301  
upon. 12302

(C) The board of township trustees of any township may, by 12303  
resolution, whenever it is expedient and necessary to guard 12304  
against the occurrence of fires or to protect the property and 12305  
lives of the citizens against damages resulting from their 12306  
occurrence, create a fire district of any portions of the township 12307  
that it considers necessary. The board may purchase, lease, lease 12308  
with an option to purchase, or otherwise provide any fire 12309  
apparatus, appliances, materials, fire hydrants, and water supply 12310  
for fire-fighting purposes, or may contract for the fire 12311  
protection for the fire district as provided in section 9.60 of 12312  
the Revised Code. The fire district so created shall be given a 12313  
separate name by which it shall be known. 12314

Additional unincorporated territory of the township may be 12315

added to a fire district upon the board's adoption of a resolution 12316  
authorizing the addition. A municipal corporation that is within 12317  
or adjoining the township may be added to a fire district upon the 12318  
board's adoption of a resolution authorizing the addition and the 12319  
municipal legislative authority's adoption of a resolution or 12320  
ordinance requesting the addition of the municipal corporation to 12321  
the fire district. 12322

If the township fire district imposes a tax, additional 12323  
unincorporated territory of the township or a municipal 12324  
corporation that is within or adjoining the township shall become 12325  
part of the fire district only after all of the following have 12326  
occurred: 12327

(1) Adoption by the board of township trustees of a 12328  
resolution approving the expansion of the territorial limits of 12329  
the district and, if the resolution proposes to add a municipal 12330  
corporation, adoption by the municipal legislative authority of a 12331  
resolution or ordinance requesting the addition of the municipal 12332  
corporation to the district; 12333

(2) Adoption by the board of township trustees of a 12334  
resolution recommending the extension of the tax to the additional 12335  
territory; 12336

(3) Approval of the tax by the electors of the territory 12337  
proposed for addition to the district. 12338

Each resolution of the board adopted under division (C)(2) of 12339  
this section shall state the name of the fire district, a 12340  
description of the territory to be added, and the rate and 12341  
termination date of the tax, which shall be the rate and 12342  
termination date of the tax currently in effect in the fire 12343  
district. 12344

The board of trustees shall certify each resolution adopted 12345  
under division (C)(2) of this section to the board of elections in 12346

accordance with section 5705.19 of the Revised Code. The election 12347  
required under division (C)(3) of this section shall be held, 12348  
canvassed, and certified in the manner provided for the submission 12349  
of tax levies under section 5705.25 of the Revised Code, except 12350  
that the question appearing on the ballot shall read: 12351

"Shall the territory within ..... 12352  
(description of the proposed territory to be added) be added to 12353  
..... (name) fire district, and a property tax 12354  
at a rate of taxation not exceeding ..... (here insert tax rate) 12355  
be in effect for ..... (here insert the number of years the 12356  
tax is to be in effect or "a continuing period of time," as 12357  
applicable)?" 12358

If the question is approved by at least a majority of the 12359  
electors voting on it, the joinder shall be effective as of the 12360  
first day of July of the year following approval, and on that 12361  
date, the township fire district tax shall be extended to the 12362  
taxable property within the territory that has been added. If the 12363  
territory that has been added is a municipal corporation and if it 12364  
had adopted a tax levy for fire purposes, the levy is terminated 12365  
on the effective date of the joinder. 12366

Any municipal corporation may withdraw from a township fire 12367  
district created under division (C) of this section by the 12368  
adoption by the municipal legislative authority of a resolution or 12369  
ordinance ordering withdrawal. On the first day of July of the 12370  
year following the adoption of the resolution or ordinance of 12371  
withdrawal, the municipal corporation withdrawing ceases to be a 12372  
part of the district, and the power of the fire district to levy a 12373  
tax upon taxable property in the withdrawing municipal corporation 12374  
terminates, except that the fire district shall continue to levy 12375  
and collect taxes for the payment of indebtedness within the 12376  
territory of the fire district as it was composed at the time the 12377  
indebtedness was incurred. 12378

Upon the withdrawal of any municipal corporation from a township fire district created under division (C) of this section, the county auditor shall ascertain, apportion, and order a division of the funds on hand, moneys and taxes in the process of collection except for taxes levied for the payment of indebtedness, credits, and real and personal property, either in money or in kind, on the basis of the valuation of the respective tax duplicates of the withdrawing municipal corporation and the remaining territory of the fire district.

A board of township trustees may remove unincorporated territory of the township from the fire district upon the adoption of a resolution authorizing the removal. On the first day of July of the year following the adoption of the resolution, the unincorporated township territory described in the resolution ceases to be a part of the district, and the power of the fire district to levy a tax upon taxable property in that territory terminates, except that the fire district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the fire district as it was composed at the time the indebtedness was incurred.

(D) The board of township trustees of any township, the board of fire district trustees of a fire district created under section 505.371 of the Revised Code, or the legislative authority of any municipal corporation may purchase, lease, or lease with an option to purchase the necessary fire-fighting equipment, buildings, and sites for the township, fire district, or municipal corporation and issue securities for that purpose with maximum maturities as provided in section 133.20 of the Revised Code. The board of township trustees, board of fire district trustees, or legislative authority may also construct any buildings necessary to house fire-fighting equipment and issue securities for that purpose with maximum maturities as provided in section 133.20 of the Revised

Code. 12411

The board of township trustees, board of fire district 12412  
trustees, or legislative authority may issue the securities of the 12413  
township, fire district, or municipal corporation, signed by the 12414  
board or designated officer of the municipal corporation and 12415  
attested by the signature of the township fiscal officer, fire 12416  
district clerk, or municipal clerk, covering any deferred payments 12417  
and payable at the times provided, which securities shall bear 12418  
interest not to exceed the rate determined as provided in section 12419  
9.95 of the Revised Code, and shall not be subject to Chapter 133. 12420  
of the Revised Code. The legislation authorizing the issuance of 12421  
the securities shall provide for levying and collecting annually 12422  
by taxation, amounts sufficient to pay the interest on and 12423  
principal of the securities. The securities shall be offered for 12424  
sale on the open market or given to the vendor or contractor if no 12425  
sale is made. 12426

Section 505.40 of the Revised Code does not apply to any 12427  
securities issued, or any lease with an option to purchase entered 12428  
into, in accordance with this division. 12429

(E) A board of township trustees of any township or a board 12430  
of fire district trustees of a fire district created under section 12431  
505.371 of the Revised Code may purchase a policy or policies of 12432  
liability insurance for the officers, employees, and appointees of 12433  
the fire department, fire district, or joint fire district 12434  
governed by the board that includes personal injury liability 12435  
coverage as to the civil liability of those officers, employees, 12436  
and appointees for false arrest, detention, or imprisonment, 12437  
malicious prosecution, libel, slander, defamation or other 12438  
violation of the right of privacy, wrongful entry or eviction, or 12439  
other invasion of the right of private occupancy, arising out of 12440  
the performance of their duties. 12441

When a board of township trustees cannot, by deed of gift or 12442

by purchase and upon terms it considers reasonable, procure land 12443  
for a township fire station that is needed in order to respond in 12444  
reasonable time to a fire or medical emergency, the board may 12445  
appropriate land for that purpose under sections 163.01 to 163.22 12446  
of the Revised Code. If it is necessary to acquire additional 12447  
adjacent land for enlarging or improving the fire station, the 12448  
board may purchase, appropriate, or accept a deed of gift for the 12449  
land for these purposes. 12450

(F) As used in this division, "emergency medical service 12451  
organization" has the same meaning as in section 4766.01 of the 12452  
Revised Code. 12453

A board of township trustees, by adoption of an appropriate 12454  
resolution, may choose to have the ~~Ohio state board of emergency~~ 12455  
medical, fire, and transportation board services license any 12456  
emergency medical service organization it operates. If the board 12457  
adopts such a resolution, Chapter 4766. of the Revised Code, 12458  
except for sections 4766.06 and 4766.99 of the Revised Code, 12459  
applies to the organization. All rules adopted under the 12460  
applicable sections of that chapter also apply to the 12461  
organization. A board of township trustees, by adoption of an 12462  
appropriate resolution, may remove its emergency medical service 12463  
organization from the jurisdiction of the ~~Ohio state board of~~ 12464  
emergency medical, fire, and transportation board services. 12465

**Sec. 505.375.** (A)(1)(a) The boards of township trustees of 12466  
one or more townships and the legislative authorities of one or 12467  
more municipal corporations, or the legislative authorities of two 12468  
or more municipal corporations, or the boards of township trustees 12469  
of two or more townships, may negotiate an agreement to form a 12470  
fire and ambulance district for the delivery of both fire and 12471  
ambulance services. The agreement shall be ratified by the 12472  
adoption of a joint resolution by a majority of the members of 12473

each board of township trustees involved and a majority of the 12474  
members of the legislative authority of each municipal corporation 12475  
involved. The joint resolution shall specify a date on which the 12476  
fire and ambulance district shall come into being. 12477

(b) If a joint fire district created under section 505.371 of 12478  
the Revised Code or a joint ambulance district created under 12479  
section 505.71 of the Revised Code is dissolved to facilitate the 12480  
creation of a fire and ambulance district under division (A)(1)(a) 12481  
of this section, the townships and municipal corporations forming 12482  
the fire and ambulance district may transfer to the fire and 12483  
ambulance district any of the funds on hand, moneys and taxes in 12484  
the process of collection, credits, and real and personal property 12485  
apportioned to them under division (D) of section 505.371 of the 12486  
Revised Code or section 505.71 of the Revised Code, as applicable, 12487  
for use by the fire and ambulance district in accordance with this 12488  
section. 12489

(2)(a) The board of trustees of a joint ambulance district 12490  
created under section 505.71 of the Revised Code and the board of 12491  
fire district trustees of a joint fire district created under 12492  
section 505.371 of the Revised Code may negotiate to combine their 12493  
two joint districts into a single fire and ambulance district for 12494  
the delivery of both fire and ambulance services, if the 12495  
geographic area covered by the combining joint districts is 12496  
exactly the same. Both boards shall adopt a joint resolution 12497  
ratifying the agreement and setting a date on which the fire and 12498  
ambulance district shall come into being. 12499

(b) On that date, the joint fire district and the joint 12500  
ambulance district shall cease to exist, and the power of each to 12501  
levy a tax upon taxable property shall terminate, except that any 12502  
levy of a tax for the payment of indebtedness within the territory 12503  
of the joint fire or joint ambulance district as it was composed 12504

at the time the indebtedness was incurred shall continue to be 12505  
collected by the successor fire and ambulance district if the 12506  
indebtedness remains unpaid. All funds and other property of the 12507  
joint districts shall become the property of the fire and 12508  
ambulance district, unless otherwise provided in the negotiated 12509  
agreement. The agreement shall provide for the settlement of all 12510  
debts and obligations of the joint districts. 12511

(B)(1) The governing body of a fire and ambulance district 12512  
created under division (A)(1) or (2) of this section shall be a 12513  
board of trustees of at least three but no more than nine members, 12514  
appointed as provided in the agreement creating the district. 12515  
Members of the board may be compensated at a rate not to exceed 12516  
thirty dollars per meeting for not more than fifteen meetings per 12517  
year, and may be reimbursed for all necessary expenses incurred, 12518  
as provided in the agreement creating the district. 12519

(2) The board shall employ a clerk and other employees as it 12520  
considers best, including a fire chief or fire prevention 12521  
officers, and shall fix their compensation. Neither this section 12522  
nor any other section of the Revised Code requires, or shall be 12523  
construed to require, that the fire chief of a fire and ambulance 12524  
district be a resident of the district. 12525

Before entering upon the duties of office, the clerk shall 12526  
execute a bond, in the amount and with surety to be approved by 12527  
the board, payable to the state, conditioned for the faithful 12528  
performance of all of the clerk's official duties. The clerk shall 12529  
deposit the bond with the presiding officer of the board, who 12530  
shall file a copy of it, certified by the presiding officer, with 12531  
the county auditor of the county containing the most territory in 12532  
the district. 12533

The board also shall provide for the appointment of a fiscal 12534  
officer for the district and may enter into agreements with 12535  
volunteer fire companies for the use and operation of 12536

fire-fighting equipment. Volunteer firefighters acting under such 12537  
an agreement are subject to the requirements for volunteer 12538  
firefighters set forth in division (A) of section 505.38 of the 12539  
Revised Code. 12540

(3) Employees of the district shall not be removed from 12541  
office except as provided by sections 733.35 to 733.39 of the 12542  
Revised Code, except that, to initiate removal proceedings, the 12543  
board shall designate a private citizen or, if the employee is 12544  
employed as a firefighter, the board may designate the fire chief, 12545  
to investigate, conduct the proceedings, and prepare the necessary 12546  
charges in conformity with those sections, and except that the 12547  
board shall perform the functions and duties specified for the 12548  
municipal legislative authority under those sections. The board 12549  
may pay reasonable compensation to any private citizen hired for 12550  
services rendered in the matter. 12551

(4) No person shall be appointed as a permanent full-time 12552  
paid member of the district whose duties include fire fighting, or 12553  
be appointed as a volunteer firefighter, unless that person has 12554  
received a certificate issued under former section 3303.07 or 12555  
section 4765.55 of the Revised Code evidencing satisfactory 12556  
completion of a firefighter training program. The board may send 12557  
its officers and firefighters to schools of instruction designed 12558  
to promote the efficiency of firefighters and, if authorized in 12559  
advance, may pay their necessary expenses from the funds used for 12560  
the maintenance and operation of the district. 12561

The board may choose, by adoption of an appropriate 12562  
resolution, to have the Ohio state board of emergency medical, 12563  
fire, and transportation board services license any emergency 12564  
medical service organization it operates. If the board adopts such 12565  
a resolution, Chapter 4766. of the Revised Code, except for 12566  
sections 4766.06 and 4766.99 of the Revised Code, applies to the 12567  
organization. All rules adopted under the applicable sections of 12568

that chapter also apply to the organization. The board may remove, 12569  
by resolution, its emergency medical service organization from the 12570  
jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, 12571  
and transportation board services. 12572

(C) The board of trustees of a fire and ambulance district 12573  
created under division (A)(1) or (2) of this section may exercise 12574  
the following powers: 12575

(1) Purchase or otherwise provide any fire apparatus, 12576  
mechanical resuscitators, or other fire or ambulance equipment, 12577  
appliances, or materials; fire hydrants; and water supply for 12578  
firefighting purposes that seems advisable to the board; 12579

(2) Provide for the care and maintenance of equipment and, 12580  
for that purpose, purchase, lease, lease with an option to 12581  
purchase, or construct and maintain necessary buildings; 12582

(3) Establish and maintain lines of fire-alarm communications 12583  
within the limits of the district; 12584

(4) Appropriate land for a fire station or medical emergency 12585  
unit needed in order to respond in reasonable time to a fire or 12586  
medical emergency, in accordance with Chapter 163. of the Revised 12587  
Code; 12588

(5) Purchase, appropriate, or accept a deed or gift of land 12589  
to enlarge or improve a fire station or medical emergency unit; 12590

(6) Purchase, lease, lease with an option to purchase, 12591  
maintain, and use all materials, equipment, vehicles, buildings, 12592  
and land necessary to perform its duties; 12593

(7) Contract for a period not to exceed three years with one 12594  
or more townships, municipal corporations, counties, joint fire 12595  
districts, joint ambulance districts, governmental agencies, 12596  
nonprofit corporations, or private ambulance owners located either 12597  
within or outside the state, to furnish or receive ambulance 12598

services or emergency medical services within the several 12599  
territories of the contracting parties, if the contract is first 12600  
authorized by all boards of trustees and legislative authorities 12601  
concerned; 12602

(8) Establish reasonable charges for the use of ambulance or 12603  
emergency medical services under the same conditions under which a 12604  
board of fire district trustees may establish those charges under 12605  
section 505.371 of the Revised Code; 12606

(9) Establish all necessary rules to guard against the 12607  
occurrence of fires and to protect property and lives against 12608  
damage and accidents; 12609

(10) Adopt a standard code pertaining to fire, fire hazards, 12610  
and fire prevention prepared and promulgated by the state or by a 12611  
public or private organization that publishes a model or standard 12612  
code; 12613

(11) Provide for charges for false alarms at commercial 12614  
establishments in the same manner as joint fire districts are 12615  
authorized to do under section 505.391 of the Revised Code; 12616

(12) Issue bonds and other evidences of indebtedness, subject 12617  
to Chapter 133. of the Revised Code, but only after approval by a 12618  
vote of the electors of the district as provided by section 133.18 12619  
of the Revised Code; 12620

(13) To provide the services and equipment it considers 12621  
necessary, levy a sufficient tax, subject to Chapter 5705. of the 12622  
Revised Code, on all the taxable property in the district. 12623

(D) Any municipal corporation or township may join an 12624  
existing fire and ambulance district, whether created under 12625  
division (A)(1) or (2) of this section, by its legislative 12626  
authority's adoption of a resolution requesting the membership and 12627  
upon approval of the board of trustees of the district. Any 12628  
municipal corporation or township may withdraw from a district, 12629

whether created under division (A)(1) or (2) of this section, by 12630  
its legislative authority's adoption of a resolution ordering 12631  
withdrawal. Upon its withdrawal, the municipal corporation or 12632  
township ceases to be a part of the district, and the district's 12633  
power to levy a tax on taxable property in the withdrawing 12634  
township or municipal corporation terminates, except that the 12635  
district shall continue to levy and collect taxes for the payment 12636  
of indebtedness within the territory of the district as it was 12637  
composed at the time the indebtedness was incurred. 12638

Upon the withdrawal of any township or municipal corporation 12639  
from a district, the county auditor of the county containing the 12640  
most territory in the district shall ascertain, apportion, and 12641  
order a division of the funds on hand, including funds in the 12642  
ambulance and emergency medical services fund, moneys and taxes in 12643  
the process of collection, except for taxes levied for the payment 12644  
of indebtedness, credits, and real and personal property on the 12645  
basis of the valuation of the respective tax duplicates of the 12646  
withdrawing municipal corporation or township and the remaining 12647  
territory of the district. 12648

(E) As used in this section: 12649

(1) "Governmental agency" includes all departments, boards, 12650  
offices, commissions, agencies, colleges, universities, 12651  
institutions, and other instrumentalities of this or another 12652  
state. 12653

(2) "Emergency medical service organization" has the same 12654  
meaning as in section 4766.01 of the Revised Code. 12655

**Sec. 505.44.** As used in this section: 12656

(A) "Emergency medical service organization" has the same 12657  
meaning as in section 4765.01 of the Revised Code. 12658

(B) "State agency" means all departments, boards, offices, 12659

commissions, agencies, colleges, universities, institutions, and 12660  
other instrumentalities of this or another state. 12661

In order to obtain the services of ambulance service 12662  
organizations, to obtain additional services from ambulance 12663  
service organizations in times of emergency, to obtain the 12664  
services of emergency medical service organizations, or, if the 12665  
township is located in a county with a population of forty 12666  
thousand or less, to obtain the services of nonemergency patient 12667  
transport service organizations, a township may enter into a 12668  
contract with one or more state agencies, townships, municipal 12669  
corporations, counties, nonprofit corporations, joint emergency 12670  
medical services districts, fire and ambulance districts, or 12671  
private ambulance owners, regardless of whether such state 12672  
agencies, townships, municipal corporations, counties, nonprofit 12673  
corporations, joint emergency medical services districts, fire and 12674  
ambulance districts, or private ambulance owners are located 12675  
within or outside the state, upon such terms as are agreed to by 12676  
them, to furnish or receive services from ambulance or emergency 12677  
medical service organizations or, if the township is located in a 12678  
county with a population of forty thousand or less, to furnish or 12679  
receive services from nonemergency patient transport service 12680  
organizations, or may enter into a contract for the interchange of 12681  
services from ambulance or emergency medical service organizations 12682  
or, if the township is located in a county with a population of 12683  
forty thousand or less, the interchange of services from 12684  
nonemergency patient transport service organizations, within the 12685  
several territories of the contracting parties, if the contract is 12686  
first authorized by the respective boards of township trustees, 12687  
the other legislative bodies, or the officer or body authorized to 12688  
contract on behalf of the state agency. Such contracts shall not 12689  
be entered into with a state agency or nonprofit corporation that 12690  
receives more than half of its operating funds from governmental 12691  
entities with the intention of directly competing with the 12692

operation of other ambulance, emergency medical, or nonemergency 12693  
patient transport service organizations in the township unless the 12694  
state agency or nonprofit corporation is awarded the contract 12695  
after submitting the lowest and best bid to the board of township 12696  
trustees. 12697

The contract may provide for compensation upon such terms as 12698  
the parties may agree. 12699

Any township wishing to commence providing or wishing to 12700  
enter into a contract for the first time to furnish or obtain 12701  
services from nonemergency patient transport service organizations 12702  
on or after March 1, 1993, including a township in which a private 12703  
provider has been providing the service, shall demonstrate the 12704  
need for public funding for the service to, and obtain approval 12705  
from, the state board of emergency medical, fire, and 12706  
transportation services or its immediate successor board prior to 12707  
the establishment of a township-operated or township-funded 12708  
service. 12709

Sec. 505.59. The board of township trustees of a township 12710  
that withdraws or proposes by resolution to withdraw the 12711  
unincorporated territory of the township from a regional transit 12712  
authority under section 306.55 of the Revised Code may levy a tax 12713  
on taxable property in the unincorporated area of the township 12714  
under section 5705.72 of the Revised Code to provide 12715  
transportation services for the movement of persons within, from, 12716  
or to the unincorporated area of the township. 12717

**Sec. 505.72.** (A) The board of trustees of a joint ambulance 12718  
district shall provide for the employment of such employees as it 12719  
considers best, and shall fix their compensation. Such employees 12720  
shall continue in office until removed as provided by sections 12721  
733.35 to 733.39 of the Revised Code. To initiate removal 12722

proceedings, and for such purpose, the board shall designate a 12723  
private citizen to investigate the conduct and prepare the 12724  
necessary charges in conformity with sections 733.35 to 733.39 of 12725  
the Revised Code. The board may pay reasonable compensation to 12726  
such person for the person's services. 12727

In case of the removal of an employee of the district, an 12728  
appeal may be had from the decision of the board to the court of 12729  
common pleas of the county in which such district, or part of it, 12730  
is situated, to determine the sufficiency of the cause of removal. 12731  
Such appeal from the findings of the board shall be taken within 12732  
ten days. 12733

(B) As used in this division, "emergency medical service 12734  
organization" has the same meaning as in section 4765.01 of the 12735  
Revised Code. 12736

(1) In order to obtain the services of ambulance service 12737  
organizations, to obtain additional services from ambulance 12738  
service organizations in times of emergency, or to obtain the 12739  
services of emergency medical service organizations, a district 12740  
may enter into a contract, for a period not to exceed three years, 12741  
with one or more townships, municipal corporations, joint fire 12742  
districts, nonprofit corporations, any other governmental unit 12743  
that provides ambulance services or emergency medical services, or 12744  
with private ambulance owners, regardless of whether such 12745  
townships, municipal corporations, joint fire districts, nonprofit 12746  
corporations, governmental unit, or private ambulance owners are 12747  
located within or without this state, upon such terms as are 12748  
agreed to, to furnish or receive services from ambulance or 12749  
emergency medical service organizations or the interchange of 12750  
services from ambulance or emergency medical service organizations 12751  
within the several territories of the contracting subdivisions, if 12752  
such contract is first authorized by all boards of trustees and 12753

legislative authorities concerned. 12754

The contract may provide for a fixed annual charge to be paid 12755  
at the times agreed upon and stipulated in the contract, or for 12756  
compensation based upon a stipulated price for each run, call, or 12757  
emergency, or the elapsed time of service required in such run, 12758  
call, or emergency, or any combination thereof. 12759

(2) Expenditures of a district for the services of ambulance 12760  
service organizations or emergency medical service organizations, 12761  
whether pursuant to contract or otherwise, are lawful 12762  
expenditures, regardless of whether the district or the party with 12763  
which it contracts charges additional fees to users of the 12764  
services. 12765

(3) A district's board of trustees, by adoption of an 12766  
appropriate resolution, may choose to have the Ohio state board of 12767  
emergency medical, fire, and transportation board services license 12768  
any emergency medical service organization the district operates. 12769  
If a board adopts such a resolution, Chapter 4766. of the Revised 12770  
Code, except for sections 4766.06 and 4766.99 of the Revised Code, 12771  
applies to the district emergency medical service organization. 12772  
All rules adopted under the applicable sections of that chapter 12773  
also apply to the organization. A board, by adoption of an 12774  
appropriate resolution, may remove the district emergency medical 12775  
service organization from the jurisdiction of the Ohio state board 12776  
of emergency medical, fire, and transportation board services. 12777

(C) Ambulance services or emergency medical services rendered 12778  
for a joint ambulance district under this section and section 12779  
505.71 of the Revised Code shall be deemed services of the 12780  
district. These sections do not authorize suits against a district 12781  
or any township or municipal corporation providing or receiving, 12782  
or contracting to provide or receive, such services under these 12783  
sections for damages for injury or loss to persons or property or 12784  
for wrongful death caused by persons providing such services. 12785

**Sec. 705.18.** An annual appropriation ordinance shall be 12786  
prepared by the legislative authority of a municipal corporation 12787  
from estimates submitted by the mayor, the ~~chairman~~ chairperson of 12788  
the commission, or the city manager, as the case may be, in the 12789  
manner provided in section 705.17 of the Revised Code for the 12790  
annual tax ordinance. The annual appropriation ordinance shall be 12791  
submitted to the legislative authority at its first meeting ~~in~~ 12792  
January after the beginning of the municipal corporation's fiscal 12793  
year, and the total of any appropriation ordinance passed by such 12794  
legislative authority shall not exceed the total balances carried 12795  
over from the previous fiscal year plus the estimated revenue of 12796  
the current fiscal year. Supplemental appropriations shall not be 12797  
made during the current fiscal year except from an contingent fund 12798  
regularly set aside by the legislative authority in the annual 12799  
appropriation ordinance or unless by an ordinance passed as an 12800  
emergency measure. 12801

**Sec. 749.04.** When the legislative authority of a municipal 12802  
corporation enters upon and takes possession of grounds purchased, 12803  
appropriated, or otherwise obtained for hospital purposes, and, by 12804  
resolution or ordinance, determines to erect thereon or rebuild a 12805  
hospital, the erection and repair thereof or any addition thereto 12806  
shall be vested in ~~a board of five commissioners, called the board~~ 12807  
of hospital commissioners, as established under this section. 12808

Such board shall consist of the mayor, ~~who, by virtue of his~~ 12809  
~~office, shall be its president,~~ and ~~four~~ at least three trustees, 12810  
to be appointed by the mayor with the consent of the legislative 12811  
authority. The members of such board shall be resident freehold 12812  
electors of the municipal corporation, and they shall receive no 12813  
compensation for their services. 12814

**Sec. 749.05.** The term of office of the appointed members of 12815

the board of hospital commissioners shall be four years, but the 12816  
members first appointed shall hold their offices, respectively, as 12817  
determined by lot at the first meeting of the board, for the 12818  
periods of one, two, three, and four years, and thereafter one 12819  
member shall be appointed each year for the full term of four 12820  
years. A The mayor with the consent of the legislative authority 12821  
shall fill any vacancy on the board of hospital commissioners not 12822  
later than sixty days after the vacancy occurs. If the vacancy 12823  
remains unfilled on that date, the legislative authority shall 12824  
have thirty additional days to fill the vacancy. If the vacancy 12825  
remains unfilled for ninety days after the vacancy occurs, the 12826  
remaining members of the board, by majority vote, shall appoint an 12827  
individual to fill the vacancy. Any member appointed to fill a 12828  
vacancy occurring prior to the expiration date of the term for 12829  
which the member's predecessor was appointed shall hold office as 12830  
a member for the remainder of that term. 12831

A majority of the board shall constitute a quorum. 12832

**Sec. 749.18.** If an agreement under section 749.16 of the 12833  
Revised Code concerns or includes participation of a joint 12834  
township hospital district, or of a county, in the maintenance and 12835  
operation of a municipal hospital, the municipal corporation may 12836  
establish a board of governors to exercise, subject to such 12837  
further limitations as are imposed by the agreement, the powers 12838  
vested in the board of hospital commissioners, provided that any 12839  
such limitations shall not deny the board of governors the 12840  
authority to retain counsel, to institute legal action in its own 12841  
name, or to employ any other lawful means, for the collection of 12842  
delinquent accounts. The board of governors may include in its 12843  
membership representatives of a participating district who are 12844  
electors of the district, or of a participating county who are 12845  
electors of that county or an adjacent county, as are provided for 12846  
in the agreement. 12847

Except as otherwise provided in this section, the municipal 12848  
members of the board of governors shall consist of the mayor, ~~who~~ 12849  
~~by virtue of that office shall be its president,~~ and ~~four~~ at least 12850  
three resident freeholders of the municipal corporation, at least 12851  
one of whom shall be a doctor of medicine, to be appointed by the 12852  
mayor with the consent of the legislative authority. However, if 12853  
necessary to secure qualified individuals to serve on the board of 12854  
governors, the municipal members of the board may be residents of 12855  
the county in which the municipal corporation is located or of an 12856  
adjacent county. ~~The~~ 12857

The term of office of ~~those~~ municipal members of the board of 12858  
governors shall be as provided in section 749.05 of the Revised 12859  
Code and vacancies on the board with respect to those members 12860  
shall be filled as provided in that section. Unless otherwise 12861  
provided in the agreement, any vacancy on the board with respect 12862  
to a member appointed by a participating joint township hospital 12863  
district or county shall be filled by the appointing body not 12864  
later than ninety days after the vacancy occurs and if the vacancy 12865  
remains unfilled on that date, the remaining members of the board, 12866  
by majority vote, shall appoint an individual to fill the vacancy. 12867  
Unless otherwise provided in the agreement, vacancies on the board 12868  
with respect to any other members shall be filled by the remaining 12869  
members of the board, by majority vote. Any member appointed to 12870  
fill a vacancy occurring prior to the expiration date of the term 12871  
for which the member's predecessor was appointed shall hold office 12872  
as a member for the remainder of that term. 12873

The board of governors, subject to the terms of the 12874  
agreement, shall establish regulations and elect officers, ~~other~~ 12875  
~~than president,~~ as its members determine. The members shall be 12876  
entitled to the compensation for their services provided by the 12877  
agreement. 12878

Sec. 901.53. (A) As used in this section, "agricultural structure" means any building or structure that is used in production, growing, harvesting, or housing for the purposes of agriculture. 12879  
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(B) With regard to fire prevention and safety, agriculture and agricultural structures are subject only to the state fire code established in rules adopted under section 3737.82 of the Revised Code and not to any other requirements governing fire prevention and safety. 12883  
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**Sec. 901.54. ~~(A)~~** There is hereby created the office of 12888  
farmland preservation within the department of agriculture. The 12889  
office shall do all of the following: 12890

~~(1)(A)~~ Prepare guidelines and criteria for use in the 12891  
development of comprehensive local land use plans that encourage 12892  
the efficient use of public infrastructure and the preservation of 12893  
farmland; 12894

~~(2)(B)~~ Establish a farmland preservation program to 12895  
coordinate and assist local farmland preservation initiatives; 12896

~~(3) Administer the pilot farmland preservation fund established in division (B) of this section;~~ 12897  
12898

~~(4)(C)~~ Educate existing agencies and organizations on the 12899  
importance of farmland preservation and on the significance of 12900  
agriculture and agribusiness to this state's economy; 12901

~~(5)(D)~~ Serve as a liaison with other farmland preservation 12902  
entities operating on a state, regional, or national level; 12903

~~(6)(E)~~ Prepare an inventory of farmland within this state to 12904  
monitor the development of lands within this state having prime 12905  
soils or unique microclimates. 12906

~~(B) There is hereby created in the state treasury the pilot~~ 12907

~~farmland preservation fund consisting of moneys received by the 12908  
office of farmland preservation for the purposes of the fund. The 12909  
fund shall be administered by the office of farmland preservation. 12910  
Moneys in the fund shall be used to leverage or match other 12911  
farmland preservation funds provided from federal, local, or 12912  
private sources. 12913~~

**Sec. 924.51.** (A) There is hereby created the Ohio grape 12915  
industries committee consisting of nine members. The members shall 12916  
be the director of agriculture or the director's designee, who 12917  
shall chair the committee, the superintendent of liquor control or 12918  
the superintendent's designee, the chief of the division of 12919  
markets of the department of agriculture, the viticulture 12920  
extension specialist of the Ohio agricultural research and 12921  
development center, who shall be a nonvoting member, and five 12922  
members who shall be residents of this state and appointed by the 12923  
director of agriculture in accordance with division (B) of this 12924  
section. At no time shall the director appoint more than five 12925  
members to the committee. 12926

(B) Of the five members of the committee appointed by the 12927  
director of agriculture, not less than two, but not more than 12928  
three shall be persons who receive ~~the major portion of their~~ 12929  
income from the production of grapes or grape products. ~~The term~~ 12930  
~~of one of these members shall begin January 1, 1982, and end~~ 12931  
~~December 31, 1982, and the second member's term shall begin~~ 12932  
~~January 1, 1982, and end December 31, 1983. Two~~ Not less than two, 12933  
but not more than three members shall be persons who receive ~~the~~ 12934  
~~major portion of their~~ income from the production of wine from raw 12935  
grape or fruit products in either raw fruit or fresh juice form. 12936  
~~The term of one of these members shall begin January 1, 1982, and~~ 12937  
~~end December 31, 1982, and the second member's term shall begin~~ 12938  
~~January 1, 1982, and end December 31, 1983. One member shall be a~~ 12939  
~~person the major portion of whose income is from the production of~~ 12940

~~grape products other than wine, such as juice, jams, or jellies;~~ 12941  
~~that member's term shall begin January 1, 1982, and end December~~ 12942  
~~31, 1984. Thereafter, the terms for each appointed member of the~~ 12943  
committee shall be for three years, commencing on the first day of 12944  
January and ending on the thirty-first day of December. No 12945  
appointed member shall serve more than two consecutive terms. The 12946  
director may remove any appointed member for cause. 12947

(C) Members shall be appointed to fill vacancies caused by 12948  
death, resignation, or removal in the same manner prescribed for 12949  
regular appointment to the committee. Any member appointed to fill 12950  
a vacancy occurring prior to the expiration of the term for which 12951  
the member's predecessor was appointed shall hold office for the 12952  
remainder of the term. Any member shall continue in office 12953  
subsequent to the expiration date of that member's term until that 12954  
member's successor takes office, or until a period of ~~sixty one~~ 12955  
hundred eighty days has elapsed, whichever occurs first. 12956

(D) All members of the committee are entitled to their actual 12957  
and necessary expenses incurred in the performance of their duties 12958  
as members, payable from moneys received from the Ohio grape 12959  
industries fund created under section 924.54 of the Revised Code. 12960

(E) A majority of the committee constitutes a quorum. 12961

**Sec. 955.16.** (A) Dogs that have been seized by the county dog 12962  
warden and impounded shall be kept, housed, and fed for three days 12963  
for the purpose of redemption, as provided by section 955.18 of 12964  
the Revised Code, unless any of the following applies: 12965

(1) Immediate humane destruction of the dog is necessary 12966  
because of obvious disease or injury. If the diseased or injured 12967  
dog is registered, as determined from the current year's 12968  
registration list maintained by the warden and the county auditor 12969  
of the county where the dog is registered, the necessity of 12970  
destroying the dog shall be certified by a licensed veterinarian 12971

or a registered veterinary technician. If the dog is not 12972  
registered, the decision to destroy it shall be made by the 12973  
warden. 12974

(2) The dog is currently registered on the registration list 12975  
maintained by the warden and the auditor of the county where the 12976  
dog is registered and the attempts to notify the owner, keeper, or 12977  
harborer under section 955.12 of the Revised Code have failed, in 12978  
which case the dog shall be kept, housed, and fed for fourteen 12979  
days for the purpose of redemption. 12980

(3) The warden has contacted the owner, keeper, or harborer 12981  
under section 955.12 of the Revised Code, and the owner, keeper, 12982  
or harborer has requested that the dog remain in the pound or 12983  
animal shelter until the owner, harborer, or keeper redeems the 12984  
dog. The time for such redemption shall be not more than 12985  
forty-eight hours following the end of the appropriate redemption 12986  
period. 12987

At any time after such periods of redemption, any dog not 12988  
redeemed shall be donated to any nonprofit special agency that is 12989  
engaged in the training of any type of assistance dogs and that 12990  
requests that the dog be donated to it. Any dog not redeemed that 12991  
is not requested by such an agency may be sold, except that no dog 12992  
sold to a person other than a nonprofit teaching or research 12993  
institution or organization of the type described in division (B) 12994  
of this section shall be discharged from the pound or animal 12995  
shelter until the animal has been registered and furnished with a 12996  
valid registration tag. 12997

(B) Any dog that is not redeemed within the applicable period 12998  
as specified in this section or section 955.12 of the Revised Code 12999  
from the time notice is mailed to its owner, keeper, or harborer 13000  
or is posted at the pound or animal shelter, as required by 13001  
section 955.12 of the Revised Code, and that is not required to be 13002  
donated to a nonprofit special agency engaged in the training of 13003

any type of assistance dogs may, upon payment to the dog warden or 13004  
poundkeeper of the sum of three dollars, be sold to any nonprofit 13005  
Ohio institution or organization that is certified by the ~~Ohio~~ 13006  
~~public director of health council~~ as being engaged in teaching or 13007  
research concerning the prevention and treatment of diseases of 13008  
human beings or animals. Any dog that is donated to a nonprofit 13009  
special agency engaged in the training of any type of assistance 13010  
dogs in accordance with division (A) of this section and any dog 13011  
that is sold to any nonprofit teaching or research institution or 13012  
organization shall be discharged from the pound or animal shelter 13013  
without registration and may be kept by the agency or by the 13014  
institution or organization without registration so long as the 13015  
dog is being trained, or is being used for teaching and research 13016  
purposes. 13017

Any institution or organization certified by the ~~Ohio public~~ 13018  
~~health council~~ director that obtains dogs for teaching and 13019  
research purposes pursuant to this section shall, at all 13020  
reasonable times, make the dogs available for inspection by agents 13021  
of the Ohio humane society, appointed pursuant to section 1717.04 13022  
of the Revised Code, and agents of county humane societies, 13023  
appointed pursuant to section 1717.06 of the Revised Code, in 13024  
order that the agents may prevent the perpetration of any act of 13025  
cruelty, as defined in section 1717.01 of the Revised Code, to the 13026  
dogs. 13027

(C) Any dog that the dog warden or poundkeeper is unable to 13028  
dispose of, in the manner provided by this section and section 13029  
955.18 of the Revised Code, may be humanely destroyed, except that 13030  
no dog shall be destroyed until twenty-four hours after it has 13031  
been offered to a nonprofit teaching or research institution or 13032  
organization, as provided in this section, that has made a request 13033  
for dogs to the dog warden or poundkeeper. 13034

(D) An owner of a dog that is wearing a valid registration 13035

tag who presents the dog to the dog warden or poundkeeper may 13036  
specify in writing that the dog shall not be offered to a 13037  
nonprofit teaching or research institution or organization, as 13038  
provided in this section. 13039

(E) A record of all dogs impounded, the disposition of the 13040  
same, the owner's name and address, if known, and a statement of 13041  
costs assessed against the dogs shall be kept by the poundkeeper, 13042  
and the poundkeeper shall furnish a transcript thereof to the 13043  
county treasurer quarterly. 13044

A record of all dogs received and the source that supplied 13045  
them shall be kept, for a period of three years from the date of 13046  
acquiring the dogs, by all institutions or organizations engaged 13047  
in teaching or research concerning the prevention and treatment of 13048  
diseases of human beings or animals. 13049

(F) No person shall destroy any dog by the use of a high 13050  
altitude decompression chamber or by any method other than a 13051  
method that immediately and painlessly renders the dog initially 13052  
unconscious and subsequently dead. 13053

**Sec. 955.26.** Whenever, in the judgment of the director of 13054  
health, any city or general health district board of health, or 13055  
persons performing the duties of a board of health, rabies is 13056  
prevalent, the director of health, the board, or those persons 13057  
shall declare a quarantine of all dogs in the health district or 13058  
in a part of it. During the quarantine, the owner, keeper, or 13059  
harborer of any dog shall keep it confined on the premises of the 13060  
owner, keeper, or harborer, or in a suitable pound or kennel, at 13061  
the expense of the owner, keeper, or harborer, except that a dog 13062  
may be permitted to leave the premises of its owner, keeper, or 13063  
harborer if it is under leash or under the control of a 13064  
responsible person. The quarantine order shall be considered an 13065  
emergency and need not be published. 13066

When the quarantine has been declared, the director of health, the board, or those persons may require vaccination for rabies of all dogs within the health district or part of it. Proof of rabies vaccination within a satisfactory period shall be demonstrated to the county auditor before any registration is issued under section 955.01 of the Revised Code for any dog that is required to be vaccinated.

The ~~public health council~~ director shall determine appropriate methods of rabies vaccination and satisfactory periods for purposes of quarantines under this section.

When a quarantine of dogs has been declared in any health district or part of a health district, the county dog warden and all other persons having the authority of police officers shall assist the health authorities in enforcing the quarantine order. When rabies vaccination has been declared compulsory in any health district or part of a health district, the dog warden shall assist the health authorities in enforcing the vaccination order.

Notwithstanding the provisions of this section, a city or general health district board of health may make orders pursuant to sections 3709.20 and 3709.21 of the Revised Code requiring the vaccination of dogs.

**Sec. 991.02.** (A) There is hereby created the Ohio expositions commission, which shall consist of the following ~~thirteen~~ fourteen members: nine members appointed by the governor with the advice and consent of the senate; the director of development, the director of natural resources, and the director of agriculture, or their designated representatives, who shall be ex officio members with voting rights of ~~such~~ the commission; and the ~~chairman~~ chairperson of the standing committee in the house of representatives to which matters dealing with agriculture are generally referred and the ~~chairman~~ chairperson of the standing

committee in the senate to which matters dealing with agriculture 13098  
are generally referred, who shall be nonvoting members. If the 13099  
senate is not in session, recess appointments shall be made by the 13100  
governor. 13101

(B) Of the nine members of the commission appointed by the 13102  
governor, not more than five shall be from one political party, at 13103  
least three members shall receive the major portion of their 13104  
income from farming, and at least one member shall, at the time of 13105  
~~his~~ appointment, be a member of the board of directors of an 13106  
agricultural society ~~which~~ that was organized in compliance with 13107  
section 1711.01 or 1711.02 of the Revised Code. Terms of office 13108  
shall be for six years, commencing on the second day of December 13109  
and ending on the first day of December. Each member shall hold 13110  
office from the date of ~~his~~ appointment until the end of the term 13111  
for which ~~he~~ the member was appointed. Any member appointed to 13112  
fill a vacancy occurring prior to the expiration of the term for 13113  
which ~~his~~ the member's predecessor was appointed shall hold office 13114  
for the remainder of ~~such~~ that term. Any member shall continue in 13115  
office subsequent to the expiration date of ~~his~~ the member's term 13116  
until ~~his~~ the member's successor takes office, or until a period 13117  
of sixty days has elapsed, whichever occurs first. 13118

The term of each nonvoting, legislative member of the 13119  
commission shall be for two years or until the end of the member's 13120  
legislative term, whichever occurs first. 13121

(C) The commission shall annually, during the month of 13122  
December, select from among its members a ~~chairman~~ chairperson, a 13123  
~~vice-chairman~~ vice-chairperson, who in the absence of the ~~chairman~~ 13124  
chairperson shall carry out ~~his~~ the chairperson's duties, and a 13125  
secretary, who may be a member or employee of the commission, to 13126  
record the minutes of its meetings and to carry out such other 13127  
duties as may be assigned by the commission, its ~~chairman~~ 13128  
chairperson, or ~~vice-chairman~~ its vice-chairperson. 13129

(D) The director of agriculture, the director of natural resources, and the director of development, or their designated representatives, and the two legislators appointed to the commission, as members of the commission shall serve without compensation. 13130  
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(E) Each of the members of the commission appointed by the governor shall be paid the rate established pursuant to division (J) of section 124.15 of the Revised Code. All members of the commission are entitled to their actual and necessary expenses incurred in the performance of their duties as such members, payable from the appropriations for the commission. 13135  
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(F) The commission shall hold at least one regular meeting in each quarter of each calendar year, and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the ~~chairman~~ chairperson and shall be called by ~~him~~ the chairperson upon receipt of a written request therefor signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. Six of the voting members of the commission shall constitute a quorum. 13141  
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(G) The commission shall employ and prescribe the powers and duties of a general manager who shall serve in the unclassified civil service at a salary fixed pursuant to section 124.14 of the Revised Code. The general manager may employ such assistant managers as ~~he~~ the general manager and the commission may approve. At no time shall such assistant managers exceed four in number, one of whom shall be appointed in the classified civil service. The general manager may, subject to the approval of the commission, employ a fiscal officer and such other officers, employees, and consultants with such powers and duties as are necessary to carry out ~~sections 991.01 to 991.07 of the Revised Code~~ this chapter. With the approval of the commission and in 13150  
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order to implement this chapter, the general manager may employ 13162  
and fix the compensation of seasonal employees; these employees 13163  
shall be in the unclassified civil service, and the overtime pay 13164  
requirements of section 124.18 of the Revised Code do not apply to 13165  
them. The general manager shall be considered the appointing 13166  
authority of the commission for purposes of Chapter 124. of the 13167  
Revised Code. 13168

(H) The governor may remove any appointed voting member of 13169  
the commission at any time for inefficiency, neglect of duty, or 13170  
malfeasance in office. 13171

**Sec. 1121.23.** Whenever the approval of the superintendent of 13172  
financial institutions is required under Chapters 1101. to 1127. 13173  
of the Revised Code, or under an order or supervisory action 13174  
issued or taken under those chapters, for a person to serve as an 13175  
organizer, incorporator, director, executive officer, or 13176  
controlling shareholder of a bank, or to otherwise have a 13177  
substantial interest in or participate in the management of a 13178  
bank, the superintendent shall request the superintendent of the 13179  
bureau of criminal identification and investigation, or a vendor 13180  
approved by the bureau, to conduct a criminal records check based 13181  
on the person's fingerprints in accordance with ~~division (A)(14)~~ 13182  
~~of~~ section 109.572 of the Revised Code. The superintendent of 13183  
financial institutions shall request that criminal record 13184  
information from the federal bureau of investigation be obtained 13185  
as part of the criminal records check. Any fee required under 13186  
division (C)(3) of section 109.572 of the Revised Code shall be 13187  
paid by the person who is the subject of the request. 13188

**Sec. 1155.03.** Whenever the approval of the superintendent of 13189  
financial institutions is required under Chapters 1151. to 1157. 13190  
of the Revised Code, or under an order or supervisory action 13191  
issued or taken under those chapters, for a person to serve as an 13192

organizer, incorporator, director, executive officer, or 13193  
controlling person of a savings and loan association, or to 13194  
otherwise have a substantial interest in or participate in the 13195  
management of a savings and loan association, the superintendent 13196  
shall request the superintendent of the bureau of criminal 13197  
identification and investigation, or a vendor approved by the 13198  
bureau, to conduct a criminal records check based on the person's 13199  
fingerprints in accordance with ~~division (A)(14)~~ of section 13200  
109.572 of the Revised Code. The superintendent of financial 13201  
institutions shall request that criminal record information from 13202  
the federal bureau of investigation be obtained as part of the 13203  
criminal records check. Any fee required under division (C)(3) of 13204  
section 109.572 of the Revised Code shall be paid by the person 13205  
who is the subject of the request. 13206

**Sec. 1163.05.** Whenever the approval of the superintendent of 13207  
financial institutions is required under Chapters 1161. to 1165. 13208  
of the Revised Code, or under an order or supervisory action 13209  
issued or taken under those chapters, for a person to serve as an 13210  
organizer, incorporator, director, executive officer, or 13211  
controlling person of a savings bank, or to otherwise have a 13212  
substantial interest in or participate in the management of a 13213  
savings bank, the superintendent shall request the superintendent 13214  
of the bureau of criminal identification and investigation, or a 13215  
vendor approved by the bureau, to conduct a criminal records check 13216  
based on the person's fingerprints in accordance with ~~division~~ 13217  
~~(A)(14)~~ of section 109.572 of the Revised Code. The superintendent 13218  
of financial institutions shall request that criminal record 13219  
information from the federal bureau of investigation be obtained 13220  
as part of the criminal records check. Any fee required under 13221  
division (C)(3) of section 109.572 of the Revised Code shall be 13222  
paid by the person who is the subject of the request. 13223

**Sec. 1315.141.** Whenever the approval of the superintendent of 13224  
financial institutions is required under sections 1315.01 to 13225  
1315.18 of the Revised Code, or under an order or supervisory 13226  
action issued or taken under those sections, for a person to serve 13227  
as an organizer, incorporator, director, executive officer, or 13228  
controlling person of a licensee, or to otherwise have a 13229  
substantial interest in or participate in the management of a 13230  
licensee, the superintendent shall request the superintendent of 13231  
the bureau of criminal identification and investigation, or a 13232  
vendor approved by the bureau, to conduct a criminal records check 13233  
based on the person's fingerprints in accordance with ~~division~~ 13234  
~~(A)(14)~~ of section 109.572 of the Revised Code. The superintendent 13235  
of financial institutions shall request that criminal record 13236  
information from the federal bureau of investigation be obtained 13237  
as part of the criminal records check. Any fee required under 13238  
division (C)(3) of section 109.572 of the Revised Code shall be 13239  
paid by the person who is the subject of the request. 13240

**Sec. 1317.05.** (A) Any retail seller who, in any retail 13241  
installment contract, has agreed to purchase insurance for the 13242  
retail buyer and to extend credit for the price thereof, shall, 13243  
prior to the due date of the first installment of the retail 13244  
installment contract, deliver to the retail buyer personally, or 13245  
mail or cause to be mailed to ~~him~~ the retail buyer at ~~his~~ the 13246  
retail buyer's address as shown on the retail installment 13247  
contract, the policy of insurance, or in lieu thereof a 13248  
certificate of insurance, or the retail buyer is not liable on ~~his~~ 13249  
the retail buyer's retail installment contract until the policy, 13250  
or certificate of insurance, is received, or full refund is made 13251  
of the insurance premium. 13252

If the premium for insurance of like kind and amount, as 13253  
fixed in the published manual of a recognized standard rating 13254

bureau designated by the retail seller, is less than the amount 13255  
charged the retail buyer as fixed in the written instrument in 13256  
compliance with division (D) of section 1317.04 of the Revised 13257  
Code, the retail buyer may deduct an amount equal to three times 13258  
the difference from the amount owed the retail seller, or ~~his~~ the 13259  
retail seller's successor in interest. Sections 1317.01 to 13260  
1317.11, inclusive, of the Revised Code do not impair the 13261  
authority of the superintendent of insurance to grant, renew, or 13262  
revoke licenses, nor do said sections authorize anyone other than 13263  
a licensee of the division of insurance to directly or indirectly 13264  
receive any part of the amount charged for insurance in connection 13265  
with any retail installment sale. 13266

(B) As used in this division, "debt cancellation or debt 13267  
suspension product" means a contractual agreement in which a 13268  
retail seller, or its assignee, agrees for a separate charge to 13269  
cancel or waive all or a part of amounts due on a retail buyer's 13270  
retail installment contract in the event of a total physical 13271  
damage loss or unrecovered theft of the motor vehicle that is the 13272  
subject of the contract. "Debt cancellation or debt suspension 13273  
product" includes a guaranteed asset protection waiver, guaranteed 13274  
auto protection waiver, or other similarly named agreement. 13275

A debt cancellation or debt suspension product, and an 13276  
addendum to a retail installment contract containing a debt 13277  
cancellation or debt suspension product, shall be considered a 13278  
part of the retail installment contract and shall remain a part of 13279  
that contract upon the assignment, sale, or transfer of that 13280  
contract. The charge for any debt cancellation or debt suspension 13281  
product shall be listed as a specific good. The purchase price and 13282  
the terms of the debt cancellation or debt suspension product 13283  
shall be disclosed in writing to the buyer. The extension of 13284  
credit, terms of the credit, or the terms of the related motor 13285  
vehicle sale or lease shall not be conditioned on the purchase of 13286

the debt cancellation or debt suspension product. Notwithstanding 13287  
any other provision of law, a debt cancellation or debt suspension 13288  
product shall not be considered insurance. 13289

**Sec. 1321.37.** (A) Application for an original or renewal 13290  
license to make short-term loans shall be in writing, under oath, 13291  
and in the form prescribed by the superintendent of financial 13292  
institutions, and shall contain the name and address of the 13293  
applicant, the location where the business of making loans is to 13294  
be conducted, and any further information as the superintendent 13295  
requires. At the time of making an application for an original 13296  
license, the applicant shall pay to the superintendent a 13297  
nonrefundable investigation fee of two hundred dollars. No 13298  
investigation fee or any portion thereof shall be refunded after 13299  
an original license has been issued. The application for an 13300  
original or renewal license shall be accompanied by an original or 13301  
renewal license fee, for each business location of one thousand 13302  
dollars, except that applications for original licenses issued on 13303  
or after the first day of July for any year shall be accompanied 13304  
by an original license fee of five hundred dollars, and except 13305  
that an application for an original or renewal license, for a 13306  
nonprofit corporation that is incorporated under Chapter 1702. of 13307  
the Revised Code, shall be accompanied by an original or renewal 13308  
license fee, for each business location, that is one-half of the 13309  
fee otherwise required. All fees paid to the superintendent 13310  
pursuant to this division shall be deposited into the state 13311  
treasury to the credit of the consumer finance fund. 13312

(B) Upon the filing of an application for an original license 13313  
and, with respect to an application filed for a renewal license, 13314  
on a schedule determined by the superintendent by rule adopted 13315  
pursuant to section 1321.43 of the Revised Code, and the payment 13316  
of fees in accordance with division (A) of this section, the 13317  
superintendent shall investigate the facts concerning the 13318

applicant and the requirements provided by this division. The 13319  
superintendent shall request the superintendent of the bureau of 13320  
criminal identification and investigation, or a vendor approved by 13321  
the bureau, to conduct a criminal records check based on the 13322  
applicant's fingerprints in accordance with ~~division (A)(12)~~ of 13323  
section 109.572 of the Revised Code. Notwithstanding division (K) 13324  
of section 121.08 of the Revised Code, the superintendent of 13325  
financial institutions shall request that criminal record 13326  
information from the federal bureau of investigation be obtained 13327  
as part of the criminal records check. The superintendent of 13328  
financial institutions shall conduct a civil records check. The 13329  
superintendent shall approve an application and issue an original 13330  
or renewal license to the applicant if the superintendent finds 13331  
all of the following: 13332

(1) The financial responsibility, experience, reputation, and 13333  
general fitness of the applicant are such as to warrant the belief 13334  
that the business of making loans will be operated lawfully, 13335  
honestly, and fairly under sections 1321.35 to 1321.48 of the 13336  
Revised Code and within the purposes of those sections; that the 13337  
applicant has fully complied with those sections and any rule or 13338  
order adopted or issued pursuant to section 1321.43 of the Revised 13339  
Code; and that the applicant is qualified to engage in the 13340  
business of making loans under sections 1321.35 to 1321.48 of the 13341  
Revised Code. 13342

(2) The applicant is financially sound and has a net worth of 13343  
not less than one hundred thousand dollars, or in the case of a 13344  
nonprofit corporation that is incorporated under Chapter 1702. of 13345  
the Revised Code, a net worth of not less than fifty thousand 13346  
dollars. The applicant's net worth shall be computed according to 13347  
generally accepted accounting principles. 13348

(3) The applicant has never had revoked a license to make 13349  
loans under sections 1321.35 to 1321.48 of the Revised Code, under 13350

former sections 1315.35 to 1315.44 of the Revised Code, or to do 13351  
business under sections 1315.21 to 1315.30 of the Revised Code. 13352

(4) Neither the applicant nor any senior officer, or partner 13353  
of the applicant, has pleaded guilty to or been convicted of any 13354  
criminal offense involving theft, receiving stolen property, 13355  
embezzlement, forgery, fraud, passing bad checks, money 13356  
laundering, or drug trafficking, or any criminal offense involving 13357  
money or securities or any violation of an existing or former law 13358  
of this state, any other state, or the United States that 13359  
substantially is equivalent to a criminal offense described in 13360  
that division. However, if the applicant or any of those other 13361  
persons has pleaded guilty to or been convicted of any such 13362  
offense other than theft, the superintendent shall not consider 13363  
the offense if the applicant has proven to the superintendent, by 13364  
a preponderance of the evidence, that the applicant's or other 13365  
person's activities and employment record since the conviction 13366  
show that the applicant or other person is honest, truthful, and 13367  
of good reputation, and there is no basis in fact for believing 13368  
that the applicant or other person will commit such an offense 13369  
again. 13370

(5) Neither the applicant nor any senior officer, or partner 13371  
of the applicant, has been subject to any adverse judgment for 13372  
conversion, embezzlement, misappropriation of funds, fraud, 13373  
misfeasance or malfeasance, or breach of fiduciary duty, or if the 13374  
applicant or any of those other persons has been subject to such a 13375  
judgment, the applicant has proven to the superintendent, by a 13376  
preponderance of the evidence, that the applicant's or other 13377  
person's activities and employment record since the judgment show 13378  
that the applicant or other person is honest, truthful, and of 13379  
good reputation, and there is no basis in fact for believing that 13380  
the applicant or other person will be subject to such a judgment 13381  
again. 13382

(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 hearing. If the application is denied, the superintendent shall return the annual license fee but shall retain the investigation fee.

(D) No person licensed under sections 1321.35 to 1321.48 of the Revised Code shall conduct business in this state unless the licensee has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent and in the penal sum of at least one hundred thousand dollars, or in the case of a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, in the amount of fifty thousand dollars. The term of the bond shall coincide with the term of the license. The licensee shall file a copy of the bond with the superintendent. The bond shall be for the exclusive benefit of any borrower injured by a violation by a licensee or any employee of a licensee, of any provision of sections 1321.35 to 1321.48 of the Revised Code.

**Sec. 1321.52.** (A)(1) No person, on that person's own behalf or on behalf of any other person, shall do any of the following without having first obtained a certificate of registration from the division of financial institutions:

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|---|---|
| (a) Advertise, solicit, or hold out that the person is engaged in the business of making residential mortgage loans secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate;  | 13415<br>13416<br>13417<br>13418                            |
| (b) Engage in the business of lending or collecting the person's own or another person's money, credit, or choses in action for non-first lien residential mortgage loans;  | 13419<br>13420<br>13421                                     |
| (c) Employ or compensate mortgage loan originators licensed or who should be licensed under sections 1321.51 to 1321.60 of the Revised Code to conduct the business of making residential mortgage loans;   | 13422<br>13423<br>13424<br>13425                            |
| (d) Make loans in this state of the type set forth in division (C) of this section that are unsecured or are secured by other than real property, which loans are for more than five thousand dollars at a rate of interest greater than permitted by section 1343.01 or other specific provisions of the Revised Code.   | 13426<br>13427<br>13428<br>13429<br>13430                   |
| (2) Each person issued a certificate of registration or license is subject to all the rules prescribed under sections 1321.51 to 1321.60 of the Revised Code.   | 13431<br>13432<br>13433                                     |
| (B)(1) All loans made to persons who at the time are residents of this state are considered as made within this state and subject to the laws of this state, regardless of any statement in the contract or note to the contrary, except as follows:  | 13434<br>13435<br>13436<br>13437                            |
| (a) If the loan is primarily secured by a lien on real property in another state and is arranged by a mortgage loan originator licensed by that state, the borrower may by choice of law designate that the transaction be governed by the law where the real property is located if the other state has consumer protection laws covering the borrower that are applicable to the transaction. | 13438<br>13439<br>13440<br>13441<br>13442<br>13443<br>13444 |
| (b) If the loan is for the purpose of purchasing goods  | 13445   |

acquired by the borrower when the borrower is outside of this 13446  
state, the loan may be governed by the laws of the other state. 13447

(2) Nothing in division (B)(1) of this section prevents a 13448  
choice of law or requires registration or licensure of persons 13449  
outside of this state in a transaction involving the solicitation 13450  
of residents of this state to obtain non-real estate secured loans 13451  
that require the borrowers to physically visit a lender's 13452  
out-of-state office to apply for and obtain the disbursement of 13453  
loan funds. 13454

(C) A registrant may make unsecured loans, loans secured by a 13455  
mortgage on a borrower's real estate which is a first lien or 13456  
other than a first lien on the real estate, loans secured by other 13457  
than real estate, and loans secured by any combination of 13458  
mortgages and security interests, on terms and conditions provided 13459  
by sections 1321.51 to 1321.60 of the Revised Code. 13460

(D)(1) If a lender that is subject to sections 1321.51 to 13461  
1321.60 of the Revised Code makes a loan in violation of division 13462  
(A)(1) of this section, the lender has no right to collect, 13463  
receive, or retain any interest or charges on that loan. 13464

(2) If a registrant applies to the division for a renewal of 13465  
the registrant's certificate after the date required by division 13466  
(A)(7) of section 1321.53 of the Revised Code, but prior to the 13467  
first day of February of that year, and the division approves the 13468  
application, division (D)(1) of this section does not apply with 13469  
respect to any loan made by the registrant while the registrant's 13470  
certificate was expired. 13471

(3) If a person's registration under sections 1321.51 to 13472  
1321.60 of the Revised Code terminates due to nonrenewal or 13473  
otherwise but the person continues to engage in the business of 13474  
collecting or servicing non-first lien residential mortgage loans 13475  
in violation of division (A)(1) of this section, the 13476

superintendent of financial institutions may take administrative 13477  
action, including action on any subsequent application for a 13478  
certificate of registration. In addition, no late fee, bad check 13479  
charge except as incurred, charge related to default or cost to 13480  
realize on its security interest, or prepayment penalty on 13481  
non-first lien residential mortgage loans shall be collected or 13482  
retained by a person who is in violation of division (A)(1)(b) of 13483  
this section for the period of time in which the person was in 13484  
violation. Nothing in division (D)(3) of this section prevents or 13485  
otherwise precludes any other actions or penalties provided by law 13486  
or modifies a defense of holder in due course that a subsequent 13487  
purchaser servicing the residential mortgage loan may raise. 13488

(E)(1) No individual shall engage in the business of a 13489  
mortgage loan originator without first obtaining and maintaining 13490  
annually a license pursuant to section 1321.532 of the Revised 13491  
Code from the division of financial institutions. A mortgage loan 13492  
originator shall be employed or associated with a registrant or 13493  
entity exempt from registration under sections 1321.51 to 1321.60 13494  
of the Revised Code, but shall not be employed by or associated 13495  
with more than one registrant or exempt entity at any one time. 13496

(2) An individual acting under the individual's authority as 13497  
a registered mortgage loan originator shall not be required to be 13498  
licensed under division (E)(1) of this section. 13499

(3) An individual who holds a valid temporary mortgage loan 13500  
originator license issued pursuant to section 1321.537 of the 13501  
Revised Code may engage in the business of a mortgage loan 13502  
originator in accordance with sections 1321.51 to 1321.60 of the 13503  
Revised Code during the term of the temporary license. 13504

(F)(1) Each licensee shall register with, and maintain a 13505  
valid unique identifier issued by, the nationwide mortgage 13506  
licensing system and registry. 13507

(2) No person shall use a licensee's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

(G)(1) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A)(1)(d) of this section and subsequently sells or assigns that loan, the person is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate that would be applicable in the absence of sections 1321.51 to 1321.60 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

(2) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a residential mortgage loan in violation of division (A)(1)(b) or (c) of this section and subsequently sells or assigns that loan, the lender is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate set forth in division (B)(4) of section 1343.01 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

**Sec. 1321.53.** (A)(1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial institutions, and shall contain any information that the division may require. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of the Revised Code before a certificate is issued or renewed.

(2) Upon the filing of the application and the payment by the applicant of a nonrefundable two\_hundred\_dollar investigation fee, a nonrefundable three\_hundred\_dollar annual registration fee, and any additional fee required by the nationwide mortgage licensing system and registry, the division shall investigate the relevant facts. If the application involves investigation outside this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of such investigation, when it appears that these expenses will exceed two hundred dollars. An itemized statement of any of these expenses which the applicant is required to pay shall be furnished to the applicant by the division. No certificate shall be issued unless all the required fees have been submitted to the division.

(3) All applicants making loans secured by an interest in real estate shall designate an employee or owner of the applicant as the applicant's primary point of contact. While acting as the primary point of contact, the employee or owner shall not be employed by any other registrant or mortgage broker.

(4) The investigation undertaken upon application shall include both a civil and criminal records check of the applicant including any individual whose identity is required to be disclosed in the application. Where the applicant is a business entity the superintendent shall have the authority to require a civil and criminal background check of those persons that in the determination of the superintendent have the authority to direct and control the operations of the applicant.

(5)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions 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; 13571  
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(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check as set forth in division (C) of section 1321.531 of the Revised Code. 13577  
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(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. 13580  
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(6) If an application for a certificate of registration does not contain all of the information required under division (A) of this section, and if such information is not submitted to the division 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. 13583  
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(7) If the division finds that the financial responsibility, experience, character, and general fitness of the applicant command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1321.51 to 1321.60 of the Revised Code and the rules adopted thereunder, and that the applicant has the requisite bond or applicable net worth and assets required by division (B) of this section, the division shall thereupon issue a certificate of registration to the applicant. The superintendent shall not use a credit score as the sole basis for a registration denial. 13592  
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(a)(i) Certificates of registration issued on or after July 1, 2010, shall annually expire on the thirty-first day of December, unless renewed by the filing of a renewal application and payment of a three\_hundred\_dollar nonrefundable annual registration fee, any assessment as determined by the superintendent pursuant to division (A)(7)(a)(ii) of this section, and any additional fee required by the nationwide mortgage licensing system and registry, on or before the last day of December of each year. No other fee or assessment shall be required of a registrant by the state or any political subdivision of this state.

(ii) If the renewal fees billed by the superintendent pursuant to division (A)(7)(a)(i) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each registrant at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each registrant shall pay the assessed amount to the superintendent prior to the last day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that registrant during the previous calendar year. If such an assessment is imposed, it shall not be less than two hundred fifty dollars per registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A)(7)(a)(i) of this section by each registrant.

(b) Registrants shall timely file renewal applications on forms prescribed by the division and provide any further information that the division may require. If a renewal application does not contain all of the information required under

this section, and if that information is not submitted to the 13635  
division or to the nationwide mortgage licensing system and 13636  
registry within ninety days after the superintendent or the 13637  
nationwide mortgage licensing system and registry requests the 13638  
information in writing, including by electronic transmission or 13639  
facsimile, the superintendent may consider the application 13640  
withdrawn. 13641

(c) Renewal shall not be granted if the applicant's 13642  
certificate of registration is subject to an order of suspension, 13643  
revocation, or an unpaid and past due fine imposed by the 13644  
superintendent. 13645

(d) If the division finds the applicant does not meet the 13646  
conditions set forth in this section, it shall issue a notice of 13647  
intent to deny the application, and forthwith notify the applicant 13648  
of the denial, the grounds for the denial, and the applicant's 13649  
reasonable opportunity to be heard on the action in accordance 13650  
with Chapter 119. of the Revised Code. 13651

(8) If there is a change of five per cent or more in the 13652  
ownership of a registrant, the division may make any investigation 13653  
necessary to determine whether any fact or condition exists that, 13654  
if it had existed at the time of the original application for a 13655  
certificate of registration, the fact or condition would have 13656  
warranted the division to deny the application under division 13657  
(A)(7) of this section. If such a fact or condition is found, the 13658  
division may, in accordance with Chapter 119. of the Revised Code, 13659  
revoke the registrant's certificate. 13660

(B) Each registrant that engages in lending under sections 13661  
1321.51 to 1321.60 of the Revised Code shall, if not otherwise 13662  
required to be bonded pursuant to section 1321.533 of the Revised 13663  
Code, maintain both of the following: 13664

(1) A net worth of at least fifty thousand dollars; 13665

(2) For each certificate of registration, assets of at least 13666  
fifty thousand dollars either in use or readily available for use 13667  
in the conduct of the business. 13668

(C) Not more than one place of business shall be maintained 13669  
under the same certificate, but the division may issue additional 13670  
certificates to the same registrant upon compliance with sections 13671  
1321.51 to 1321.60 of the Revised Code, governing the issuance of 13672  
a single certificate. No change in the place of business of a 13673  
registrant to a location outside the original municipal 13674  
corporation shall be permitted under the same certificate without 13675  
the approval of a new application, the payment of the registration 13676  
fee and, if required by the superintendent, the payment of an 13677  
investigation fee of two hundred dollars. When a registrant wishes 13678  
to change its place of business within the same municipal 13679  
corporation, it shall give written notice of the change in advance 13680  
to the division, which shall provide a certificate for the new 13681  
address without cost. If a registrant changes its name, prior to 13682  
making loans under the new name it shall give written notice of 13683  
the change to the division, which shall provide a certificate in 13684  
the new name without cost. Sections 1321.51 to 1321.60 of the 13685  
Revised Code do not limit the loans of any registrant to residents 13686  
of the community in which the registrant's place of business is 13687  
situated. Each certificate shall be kept conspicuously posted in 13688  
the place of business of the registrant and is not transferable or 13689  
assignable. 13690

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 13691  
apply to any of the following: 13692

(1) Entities chartered and lawfully doing business under the 13693  
authority of any law of this state, another state, or the United 13694  
States as a bank, savings bank, trust company, savings and loan 13695  
association, or credit union, or a subsidiary of any such entity, 13696  
which subsidiary is regulated by a federal banking agency and is 13697

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| owned and controlled by such a depository institution;   | 13698  |
| (2) Life, property, or casualty insurance companies licensed to do business in this state;   | 13699<br>13700                                     |
| (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;   | 13701<br>13702<br>13703<br>13704                   |
| (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;   | 13705<br>13706<br>13707<br>13708<br>13709          |
| (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;   | 13710<br>13711<br>13712                            |
| (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.   | 13713<br>13714<br>13715<br>13716<br>13717          |
| (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.  | 13718<br>13719<br>13720<br>13721                   |
| <b>Sec. 1321.531.</b> (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 | 13722<br>13723<br>13724<br>13725<br>13726<br>13727 |

mortgage licensing system and registry. 13728

(B) The superintendent may establish relationships or enter 13729  
into contracts with the nationwide mortgage licensing system and 13730  
registry, or any entities designated by it, to collect and 13731  
maintain records and process transaction fees or other fees 13732  
related to mortgage loan originator licensees or other persons 13733  
subject to or involved in their licensure. 13734

(C) In connection with applying for a mortgage loan 13735  
originator license, the applicant shall furnish to the nationwide 13736  
mortgage licensing system and registry the following information 13737  
concerning the applicant's identity: 13738

(1) The applicant's fingerprints for submission to the 13739  
federal bureau of investigation, and any other governmental agency 13740  
or entity authorized to receive such information, for purposes of 13741  
a state, national, and international criminal history background 13742  
check; 13743

(2) Personal history and experience in a form prescribed by 13744  
the nationwide mortgage licensing system and registry, along with 13745  
authorization for the superintendent and the nationwide mortgage 13746  
licensing system and registry to obtain the following: 13747

(a) An independent credit report from a consumer reporting 13748  
agency; 13749

(b) Information related to any administrative, civil, or 13750  
criminal findings by any governmental jurisdiction. 13751

(D) In order to effectuate the purposes of divisions (C)(1) 13752  
and (C)(2)(b) of this section, the superintendent may use the 13753  
conference of state bank supervisors, or a wholly owned 13754  
subsidiary, as a channeling agent for requesting information from 13755  
and distributing information to the United States department of 13756  
justice or any other governmental agency. The superintendent may 13757

also use the nationwide mortgage licensing system and registry as 13758  
a channeling agent for requesting information from and 13759  
distributing information to any source related to matters subject 13760  
to divisions (C)(2)(a) and (b) of this section. 13761

(E) Upon the filing of the application, payment of the 13762  
application fee, and payment of any additional fee, including any 13763  
fee required by the nationwide mortgage licensing system and 13764  
registry, the superintendent shall investigate the applicant as 13765  
set forth in division (E) of this section. 13766

(1)(a) Notwithstanding division (K) of section 121.08 of the 13767  
Revised Code, the superintendent shall obtain a criminal history 13768  
records check and, as part of that records check, request that 13769  
criminal record information from the federal bureau of 13770  
investigation be obtained. To fulfill this requirement, the 13771  
superintendent shall do either of the following: 13772

(i) Request the superintendent of the bureau of criminal 13773  
identification and investigation, or a vendor approved by the 13774  
bureau, to conduct a criminal records check based on the 13775  
applicant's fingerprints or, if the fingerprints are unreadable, 13776  
based on the applicant's social security number in accordance with 13777  
~~division (A)(12) of~~ section 109.572 of the Revised Code; 13778

(ii) Authorize the nationwide mortgage licensing system and 13779  
registry to request a criminal history background check as set 13780  
forth in division (C) of this section. 13781

(b) Any fee required under division (C)(3) of section 109.572 13782  
of the Revised Code or by the nationwide mortgage licensing system 13783  
and registry shall be paid by the applicant. 13784

(2) The superintendent of financial institutions shall 13785  
conduct a civil records check. 13786

(3) If, in order to issue a license to an applicant, 13787  
additional investigation by the superintendent outside this state 13788

is necessary, the superintendent may require the applicant to 13789  
advance sufficient funds to pay the actual expenses of the 13790  
investigation, if it appears that these expenses will exceed one 13791  
hundred dollars. The superintendent shall provide the applicant 13792  
with an itemized statement of the actual expenses that the 13793  
applicant is required to pay. 13794

(F) If an application for a mortgage loan originator license 13795  
does not contain all of the information required under this 13796  
section, and if that information is not submitted to the 13797  
superintendent or to the nationwide mortgage licensing system and 13798  
registry within ninety days after the superintendent or the 13799  
nationwide mortgage licensing system and registry requests the 13800  
information in writing, including by electronic transmission or 13801  
facsimile, the superintendent may consider the application 13802  
withdrawn. 13803

**Sec. 1321.537.** (A) As used in this section: 13804

(1) "Out-of-state mortgage loan originator" means an 13805  
individual to whom both of the following apply: 13806

(a) The individual holds a valid mortgage loan originator 13807  
license, or comparable authority, issued pursuant to the law of 13808  
any other state of the United States. 13809

(b) The individual is registered, fingerprinted, and 13810  
maintains a unique identifier through the nationwide mortgage 13811  
licensing system and registry. 13812

(2) "Sponsor" means a registrant or entity described in 13813  
division (D) of section 1321.53 of the Revised Code that employs 13814  
or is associated with an applicant for a temporary mortgage loan 13815  
originator license and, during the term of the applicant's 13816  
temporary license, covers the applicant under its corporate surety 13817  
bond or requires the applicant to obtain and maintain a corporate 13818

surety bond. 13819

(B) The superintendent of financial institutions may, in 13820  
accordance with this section, issue to an out-of-state mortgage 13821  
loan originator a temporary mortgage loan originator license that 13822  
enables the licensee to engage in the business of a mortgage loan 13823  
originator while the individual completes the requirements 13824  
necessary to meet the conditions set forth in section 1321.532 of 13825  
the Revised Code for a mortgage loan originator license. A 13826  
temporary mortgage loan originator license shall be valid for a 13827  
term of not more than one hundred twenty days from the date of 13828  
issuance. A temporary mortgage loan originator license may not be 13829  
renewed. 13830

(C) An application for a temporary mortgage loan originator 13831  
license shall be in writing, under oath, and in a form that meets 13832  
the requirements of the nationwide mortgage licensing system and 13833  
registry. The application shall be accompanied by a nonrefundable 13834  
application fee, the amount of which shall be determined by the 13835  
superintendent in rule, and a certification that, as of the date 13836  
of application, the applicant meets both of the following 13837  
conditions: 13838

(1) The applicant has at least two years of experience in the 13839  
field of residential mortgage lending in the five years 13840  
immediately preceding the date of application for the temporary 13841  
mortgage loan originator license. 13842

(2) The applicant has not previously applied for a temporary 13843  
mortgage loan originator license in this state. 13844

(3) The applicant has not had a mortgage loan originator 13845  
license, or comparable authority, revoked in any governmental 13846  
jurisdiction. For purposes of division (C)(3) of this section, a 13847  
subsequent formal vacation of such a revocation shall not be 13848  
considered a revocation. 13849

(4) The applicant has not been convicted of, or pleaded guilty or nolo contendere to, any of the following in a domestic, foreign, or military court: 13850  
13851  
13852

(a) During the seven-year period immediately preceding the date of application, a misdemeanor involving theft or any felony; 13853  
13854

(b) At any time prior to the date of application, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering. 13855  
13856  
13857

For purposes of division (C)(4) of this section, any conviction for which the applicant has received a pardon shall not be considered a conviction. 13858  
13859  
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(D) The superintendent shall issue a temporary mortgage loan originator license to the applicant if the superintendent finds that all of the following conditions are met: 13861  
13862  
13863

(1) The application is accompanied by the application fee and the certification described in division (C) of this section. 13864  
13865

(2) The applicant is registered, fingerprinted, and has a valid unique identifier through the nationwide mortgage licensing system and registry as of the date of application. 13866  
13867  
13868

(3) The applicant has authorized the nationwide mortgage licensing system and registry to obtain a credit report for submission to the superintendent. 13869  
13870  
13871

(4) The applicant has a sponsor that certifies employment of, or association with, the applicant and has signed the application. 13872  
13873

(E) The sponsor of a temporary licensee shall have an affirmative duty to supervise the conduct of each temporary mortgage loan originator in the same manner as is required of its other licensees. If the temporary licensee's employment or association with the sponsor is terminated, the sponsor shall notify the division of financial institutions of the termination 13874  
13875  
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through the nationwide mortgage licensing system and registry. 13880  
Upon the division's receipt of the notice, the sponsor shall no 13881  
longer be held responsible for the conduct of the temporary 13882  
licensee. 13883

(F) The superintendent may, in accordance with Chapter 119. 13884  
of the Revised Code, adopt rules necessary for the implementation 13885  
and operation of this section. 13886

**Sec. 1321.538.** If the "Secure and Fair Enforcement for 13887  
Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, 13888  
as amended, is modified after the effective date of this section, 13889  
or any regulation, statement, or position is adopted under that 13890  
act, to permit states to issue a temporary mortgage loan 13891  
originator license to a registered mortgage loan originator, the 13892  
superintendent shall, in accordance with section 111.15 of the 13893  
Revised Code, adopt rules the superintendent considers necessary 13894  
and appropriate to issue a temporary license to a registered 13895  
mortgage loan originator. 13896

**Sec. 1322.02.** (A)(1) No person, on the person's own behalf or 13897  
on behalf of any other person, shall act as a mortgage broker 13898  
without first having obtained a certificate of registration from 13899  
the superintendent of financial institutions for every office to 13900  
be maintained by the person for the transaction of business as a 13901  
mortgage broker in this state. A registrant shall maintain an 13902  
office location in this state for the transaction of business as a 13903  
mortgage broker in this state. 13904

(2) No person shall act or hold that person's self out as a 13905  
mortgage broker under the authority or name of a registrant or 13906  
person exempt from sections 1322.01 to 1322.12 of the Revised Code 13907  
without first having obtained a certificate of registration from 13908  
the superintendent for every office to be maintained by the person 13909

for the transaction of business as a mortgage broker in this 13910  
state. 13911

(B)(1) No individual shall act as a loan originator without 13912  
first having obtained a license from the superintendent. A loan 13913  
originator shall be employed by or associated with a mortgage 13914  
broker or any person or entity listed in division (G)(2) of 13915  
section 1322.01 of the Revised Code, but shall not be employed by 13916  
or associated with more than one mortgage broker or person or 13917  
entity at any one time. 13918

(2) An individual acting under the individual's authority as 13919  
a registered loan originator shall not be required to be licensed 13920  
under division (B)(1) of this section. 13921

(3) An individual who holds a valid temporary loan originator 13922  
license issued pursuant to section 1322.042 of the Revised Code 13923  
may engage in the business of a loan originator in accordance with 13924  
sections 1322.01 to 1322.12 of the Revised Code during the term of 13925  
the temporary license. 13926

(C)(1) No person acting as a mortgage broker or loan 13927  
originator shall fail to register with, and maintain a valid 13928  
unique identifier issued by, the nationwide mortgage licensing 13929  
system and registry. 13930

(2) No person shall use a mortgage broker's or loan 13931  
originator's unique identifier for any purpose other than as set 13932  
forth in the "Secure and Fair Enforcement for Mortgage Licensing 13933  
Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 13934

**Sec. 1322.03.** (A) An application for a certificate of 13935  
registration as a mortgage broker shall be in writing, under oath, 13936  
and in the form prescribed by the superintendent of financial 13937  
institutions. The application shall be accompanied by a 13938  
nonrefundable application fee of five hundred dollars for each 13939

location of an office to be maintained by the applicant in 13940  
accordance with division (A) of section 1322.02 of the Revised 13941  
Code and any additional fee required by the nationwide mortgage 13942  
licensing system and registry. The application shall provide all 13943  
of the following: 13944

(1) The location or locations where the business is to be 13945  
transacted and whether any location is a residence. If any 13946  
location where the business is to be transacted is a residence, 13947  
the superintendent may require that the application be accompanied 13948  
by a copy of a zoning permit authorizing the use of the residence 13949  
for commercial purposes, or by a written opinion or other document 13950  
issued by the county or political subdivision where the residence 13951  
is located certifying that the use of the residence to transact 13952  
business as a mortgage broker is not prohibited by the county or 13953  
political subdivision. 13954

(2)(a) In the case of a sole proprietor, the name and address 13955  
of the sole proprietor; 13956

(b) In the case of a partnership, the name and address of 13957  
each partner; 13958

(c) In the case of a corporation, the name and address of 13959  
each shareholder owning five per cent or more of the corporation; 13960

(d) In the case of any other entity, the name and address of 13961  
any person that owns five per cent or more of the entity that will 13962  
transact business as a mortgage broker. 13963

(3) Each applicant shall designate an employee or owner of 13964  
the applicant as the applicant's operations manager. While acting 13965  
as the operations manager, the employee or owner shall be licensed 13966  
as a loan originator under sections 1322.01 to 1322.12 of the 13967  
Revised Code and shall not be employed by any other mortgage 13968  
broker. 13969

(4) Evidence that the person designated on the application 13970

pursuant to division (A)(3) of this section possesses at least 13971  
three years of experience in the residential mortgage and lending 13972  
field, which experience may include employment with or as a 13973  
mortgage broker or with a depository institution, mortgage lending 13974  
institution, or other lending institution, or possesses at least 13975  
three years of other experience related specifically to the 13976  
business of residential mortgage loans that the superintendent 13977  
determines meets the requirements of division (A)(4) of this 13978  
section; 13979

(5) Evidence that the person designated on the application 13980  
pursuant to division (A)(3) of this section has successfully 13981  
completed the pre-licensing instruction requirements set forth in 13982  
section 1322.031 of the Revised Code; 13983

(6) Evidence of compliance with the surety bond requirements 13984  
of section 1322.05 of the Revised Code and with sections 1322.01 13985  
to 1322.12 of the Revised Code; 13986

(7) In the case of a foreign business entity, evidence that 13987  
it maintains a license or registration pursuant to Chapter 1703., 13988  
1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to 13989  
transact business in this state; 13990

(8) Evidence that the applicant's operations manager has 13991  
successfully completed the written test required under division 13992  
(A) of section 1322.051 of the Revised Code; 13993

(9) Any further information that the superintendent requires. 13994

(B) Upon the filing of the application and payment of the 13995  
nonrefundable application fee and any fee required by the 13996  
nationwide mortgage licensing system and registry, the 13997  
superintendent of financial institutions shall investigate the 13998  
applicant, and any individual whose identity is required to be 13999  
disclosed in the application, as set forth in division (B) of this 14000  
section. 14001

(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.

(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. 14033

(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. 14034  
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(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. 14043  
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(F) The registration requirements of this chapter apply to any person acting as a mortgage broker, and no person is exempt from the requirements of this chapter on the basis of prior work or employment as a mortgage broker. 14047  
14048  
14049  
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(G) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage broker certificates of registration or the persons associated with a mortgage broker. 14051  
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**Sec. 1322.031.** (A) An application for a license as a loan originator 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 any additional fee required by the nationwide mortgage licensing system and registry. 14057  
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(B)(1) The application shall provide evidence, acceptable to 14063  
the superintendent, that the applicant has successfully completed 14064  
at least twenty-four hours of pre-licensing instruction consisting 14065  
of all of the following: 14066

(a) Twenty hours of instruction in a course or program of 14067  
study reviewed and approved by the nationwide mortgage licensing 14068  
system and registry; 14069

(b) Four hours of instruction in a course or program of study 14070  
reviewed and approved by the superintendent concerning state 14071  
lending laws and the Ohio consumer sales practices act, Chapter 14072  
1345. of the Revised Code, as it applies to registrants and 14073  
licensees. 14074

(2) Notwithstanding division (B)(1) of this section, until 14075  
the nationwide mortgage licensing system and registry implements a 14076  
review and approval program, the application shall provide 14077  
evidence, as determined by the superintendent, that the applicant 14078  
has successfully completed at least twenty-four hours of 14079  
instruction in a course or program of study approved by the 14080  
superintendent that consists of at least all of the following: 14081

(a) Four hours of instruction concerning state and federal 14082  
mortgage lending laws, which shall include no less than two hours 14083  
on this chapter; 14084

(b) Four hours of instruction concerning the Ohio consumer 14085  
sales practices act, Chapter 1345. of the Revised Code, as it 14086  
applies to registrants and licensees; 14087

(c) Four hours of instruction concerning the loan application 14088  
process; 14089

(d) Two hours of instruction concerning the underwriting 14090  
process; 14091

(e) Two hours of instruction concerning the secondary market 14092

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| for mortgage loans;  | 14093  |
| (f) Four hours of instruction concerning the loan closing process;   | 14094<br>14095                                     |
| (g) Two hours of instruction covering basic mortgage financing concepts and terms;   | 14096<br>14097                                     |
| (h) Two hours of instruction concerning the ethical responsibilities of a registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.   | 14098<br>14099<br>14100<br>14101<br>14102          |
| (3) For purposes of division (B)(1)(a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study.  | 14103<br>14104<br>14105<br>14106                   |
| (4) If an applicant held a valid loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered loan originator shall not be taken into account. | 14107<br>14108<br>14109<br>14110<br>14111<br>14112 |
| (5) A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state.   | 14113<br>14114<br>14115<br>14116<br>14117          |
| (C) In addition to the information required under division (B) of this section, the application shall provide both of the following:   | 14118<br>14119<br>14120                            |
| (1) Evidence that the applicant passed a written test that meets the requirements described in division (B) of section   | 14121<br>14122                                     |

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| 1322.051 of the Revised Code;  | 14123  |
| (2) Any further information that the superintendent requires.  | 14124  |
| (D) Upon the filing of the application and payment of the application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent of financial institutions shall investigate the applicant as set forth in division (D) of this section.  | 14125<br>14126<br>14127<br>14128<br>14129          |
| (1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of the records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:                          | 14130<br>14131<br>14132<br>14133<br>14134<br>14135 |
| (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 <del>division (A)(12)</del> of section 109.572 of the Revised Code; | 14136<br>14137<br>14138<br>14139<br>14140<br>14141 |
| (ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.   | 14142<br>14143                                     |
| (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.  | 14144<br>14145<br>14146                            |
| (2) The superintendent shall conduct a civil records check.  | 14147  |
| (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   | 14148<br>14149<br>14150<br>14151<br>14152          |

hundred fifty dollars. The superintendent shall provide the 14153  
applicant with an itemized statement of the actual expenses that 14154  
the applicant is required to pay. 14155

(E)(1) In connection with applying for a loan originator 14156  
license, the applicant shall furnish to the nationwide mortgage 14157  
licensing system and registry the following information concerning 14158  
the applicant's identity: 14159

(a) The applicant's fingerprints for submission to the 14160  
federal bureau of investigation, and any other governmental agency 14161  
or entity authorized to receive such information, for purposes of 14162  
a state, national, and international criminal history background 14163  
check; 14164

(b) Personal history and experience in a form prescribed by 14165  
the nationwide mortgage licensing system and registry, along with 14166  
authorization for the superintendent and the nationwide mortgage 14167  
licensing system and registry to obtain the following: 14168

(i) An independent credit report from a consumer reporting 14169  
agency; 14170

(ii) Information related to any administrative, civil, or 14171  
criminal findings by any governmental jurisdiction. 14172

(2) In order to effectuate the purposes of divisions 14173  
(E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent 14174  
may use the conference of state bank supervisors, or a wholly 14175  
owned subsidiary, as a channeling agent for requesting information 14176  
from and distributing information to the United States department 14177  
of justice or any other governmental agency. The superintendent 14178  
may also use the nationwide mortgage licensing system and registry 14179  
as a channeling agent for requesting information from and 14180  
distributing information to any source related to matters subject 14181  
to those divisions of this section. 14182

(F) The superintendent shall pay all funds advanced and 14183

application and renewal fees and penalties the superintendent 14184  
receives pursuant to this section and section 1322.041 of the 14185  
Revised Code to the treasurer of state to the credit of the 14186  
consumer finance fund created in section 1321.21 of the Revised 14187  
Code. 14188

(G) If an application for a loan originator license does not 14189  
contain all of the information required under this section, and if 14190  
that information is not submitted to the superintendent or to the 14191  
nationwide mortgage licensing system and registry within ninety 14192  
days after the superintendent or the nationwide mortgage licensing 14193  
system and registry requests the information in writing, including 14194  
by electronic transmission or facsimile, the superintendent may 14195  
consider the application withdrawn. 14196

(H)(1) The business of a loan originator shall principally be 14197  
transacted at an office of the mortgage broker with whom the 14198  
licensee is employed or associated, which office is registered in 14199  
accordance with division (A) of section 1322.02 of the Revised 14200  
Code. Each original loan originator license shall be deposited 14201  
with and maintained by the mortgage broker at the mortgage 14202  
broker's main office. A copy of the license shall be maintained 14203  
and displayed at the office where the loan originator principally 14204  
transacts business. 14205

(2) If a loan originator's employment or association is 14206  
terminated for any reason, the mortgage broker shall return the 14207  
original loan originator license to the superintendent within five 14208  
business days after the termination. The licensee may request the 14209  
transfer of the license to another mortgage broker by submitting a 14210  
transfer application, along with a fifteen dollar fee and any fee 14211  
required by the national mortgage licensing system and registry, 14212  
to the superintendent or may request the superintendent in writing 14213  
to hold the license in escrow. Any licensee whose license is held 14214  
in escrow shall cease activity as a loan originator. A licensee 14215

whose license is held in escrow shall be required to apply for 14216  
renewal annually and to comply with the annual continuing 14217  
education requirement. 14218

(3) A mortgage broker may employ or be associated with a loan 14219  
originator on a temporary basis pending the transfer of the loan 14220  
originator's license to the mortgage broker, if the mortgage 14221  
broker receives written confirmation from the superintendent that 14222  
the loan originator is licensed under sections 1322.01 to 1322.12 14223  
of the Revised Code. 14224

(4) Notwithstanding divisions (H)(1) to (3) of this section, 14225  
if a licensee is employed by or associated with a person or entity 14226  
listed in division (G)(2) of section 1322.01 of the Revised Code, 14227  
all of the following apply: 14228

(a) The licensee shall maintain and display the original loan 14229  
originator license at the office where the licensee principally 14230  
transacts business; 14231

(b) If the loan originator's employment or association is 14232  
terminated, the loan originator shall return the original loan 14233  
originator license to the superintendent within five business days 14234  
after termination. The licensee may request the transfer of the 14235  
license to a mortgage broker or another person or entity listed in 14236  
division (G)(2) of section 1322.01 of the Revised Code by 14237  
submitting a transfer application, along with a fifteen-dollar fee 14238  
and any fee required by the national mortgage licensing system and 14239  
registry, to the superintendent or may request the superintendent 14240  
in writing to hold the license in escrow. A licensee whose license 14241  
is held in escrow shall cease activity as a loan originator. A 14242  
licensee whose license is held in escrow shall be required to 14243  
apply for renewal annually and to comply with the annual 14244  
continuing education requirement. 14245

(c) The licensee may seek to be employed or associated with a 14246

mortgage broker or person or entity listed in division (G)(2) of 14247  
section 1322.01 of the Revised Code if the mortgage broker or 14248  
person or entity receives written confirmation from the 14249  
superintendent that the loan originator is licensed under sections 14250  
1322.01 to 1322.12 of the Revised Code. 14251

(I) The superintendent may establish relationships or enter 14252  
into contracts with the nationwide mortgage licensing system and 14253  
registry, or any entities designated by it, to collect and 14254  
maintain records and process transaction fees or other fees 14255  
related to loan originator licenses or the persons associated with 14256  
a licensee. 14257

(J) A loan originator license, or the authority granted under 14258  
that license, is not assignable and cannot be franchised by 14259  
contract or any other means. 14260

**Sec. 1322.042.** (A) As used in this section: 14261

(1) "Out-of-state loan originator" means an individual to 14262  
whom both of the following apply: 14263

(a) The individual holds a valid loan originator license, or 14264  
comparable authority, issued pursuant to the law of any other 14265  
state of the United States. 14266

(b) The individual is registered, fingerprinted, and 14267  
maintains a unique identifier through the nationwide mortgage 14268  
licensing system and registry. 14269

(2) "Sponsor" means a registrant or entity described in 14270  
division (G)(2) of section 1322.01 of the Revised Code that 14271  
employs or is associated with an applicant for a temporary loan 14272  
originator license and, during the term of the applicant's 14273  
temporary license, covers the applicant under its corporate surety 14274  
bond or requires the applicant to obtain and maintain a corporate 14275  
surety bond. 14276

(B) The superintendent of financial institutions may, in accordance with this section, issue to an out-of-state loan originator a temporary loan originator license that enables the licensee to engage in the business of a loan originator while the individual completes the requirements necessary to meet the conditions set forth in section 1322.041 of the Revised Code for a loan originator license. A temporary loan originator license shall be valid for a term of not more than one hundred twenty days from the date of issuance. A temporary loan originator license may not be renewed.

(C) An application for a temporary loan originator license shall be in writing, under oath, and in a form that meets the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee, the amount of which shall be determined by the superintendent in rule, and a certification that, as of the date of application, the applicant meets the following conditions:

(1) The applicant has at least two years of experience in the field of residential mortgage lending in the five years immediately preceding the date of application for the temporary loan originator license.

(2) The applicant has not previously applied for a temporary loan originator license in this state.

(3) The applicant has not had a loan originator license, or comparable authority, revoked in any governmental jurisdiction. For purposes of division (C)(3) of this section, a subsequent formal vacation of such a revocation shall not be considered a revocation.

(4) The applicant has not been convicted of, or pleaded guilty or nolo contendere to, any of the following in a domestic, foreign, or military court:

(a) During the seven-year period immediately preceding the date of application, a misdemeanor involving theft or any felony; 14308  
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(b) At any time prior to the date of application, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering. 14310  
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For purposes of division (C)(4) of this section, any conviction for which the applicant has received a pardon shall not be considered a conviction. 14313  
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(D) The superintendent shall issue a temporary loan originator license to the applicant if the superintendent finds that all of the following conditions are met: 14316  
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(1) The application is accompanied by the application fee and the certification described in division (C) of this section. 14319  
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(2) The applicant is registered, fingerprinted, and has a valid unique identifier through the nationwide mortgage licensing system and registry as of the date of application. 14321  
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(3) The applicant has authorized the nationwide mortgage licensing system and registry to obtain a credit report for submission to the superintendent. 14324  
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(4) The applicant has a sponsor that certifies employment of, or association with, the applicant and has signed the application. 14327  
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(E) The sponsor of a temporary licensee shall have an affirmative duty to supervise the conduct of each temporary loan originator in the same manner as is required of its other licensees. If the temporary licensee's employment or association with the sponsor is terminated, the sponsor shall notify the division of financial institutions of the termination through the nationwide mortgage licensing system and registry. Upon the division's receipt of the notice, the sponsor shall no longer be held responsible for the conduct of the temporary licensee. 14329  
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(F) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt rules necessary for the implementation and operation of this section. 14338  
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Sec. 1322.043. If the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after the effective date of this section, or any regulation, statement, or position is adopted under that act, to permit states to issue a temporary loan originator license to a registered loan originator, the superintendent shall, in accordance with section 111.15 of the Revised Code, adopt rules the superintendent considers necessary and appropriate to issue a temporary license to a registered loan originator. 14341  
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**Sec. 1345.05.** (A) The attorney general shall: 14350

(1) Adopt, amend, and repeal procedural rules; 14351

(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; 14352  
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(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; 14359  
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(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 proceedings instituted and of their disposition, and of other activities of the state and of other persons to promote the purposes of Chapter 1345. of the Revised Code.

(7) In carrying out official duties, the attorney general shall not disclose publicly the identity of suppliers investigated or the facts developed in investigations unless these matters have become a matter of public record in enforcement proceedings, in public hearings conducted pursuant to division (B)(1) of this section, or the suppliers investigated have consented in writing to public disclosure.

(B) The attorney general may:

(1) Conduct research, make inquiries, hold public hearings, and publish studies relating to consumer transactions;

(2) Adopt, amend, and repeal substantive rules defining with

reasonable specificity acts or practices that violate sections 14399  
1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, 14400  
amending, or repealing substantive rules defining acts or 14401  
practices that violate section 1345.02 of the Revised Code, due 14402  
consideration and great weight shall be given to federal trade 14403  
commission orders, trade regulation rules and guides, and the 14404  
federal courts' interpretations of subsection 45(a)(1) of the 14405  
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 14406  
41, as amended. 14407

In adopting, amending, or repealing such rules concerning a 14408  
consumer transaction in connection with a residential mortgage, 14409  
the attorney general shall consult with the superintendent of 14410  
financial institutions and shall give due consideration to state 14411  
and federal statutes, regulations, administrative agency 14412  
interpretations, and case law. 14413

(C) In the conduct of public hearings authorized by this 14414  
section, the attorney general may administer oaths, subpoena 14415  
witnesses, adduce evidence, and require the production of relevant 14416  
material. Upon failure of a person without lawful excuse to obey a 14417  
subpoena or to produce relevant matter, the attorney general may 14418  
apply to a court of common pleas for an order compelling 14419  
compliance. 14420

(D) The attorney general may request that an individual who 14421  
refuses to testify or to produce relevant material on the ground 14422  
that the testimony or matter may incriminate the individual be 14423  
ordered by the court to provide the testimony or matter. With the 14424  
exception of a prosecution for perjury and an action for damages 14425  
under section 1345.07 or 1345.09 of the Revised Code, an 14426  
individual who complies with a court order to provide testimony or 14427  
matter, after asserting a privilege against self incrimination to 14428  
which the individual is entitled by law, shall not be subjected to 14429  
a criminal proceeding on the basis of the testimony or matter 14430

discovered through that testimony or matter. 14431

(E) Any person may petition the attorney general requesting 14432  
the adoption, amendment, or repeal of a rule. The attorney general 14433  
shall prescribe by rule the form for such petitions and the 14434  
procedure for their submission, consideration, and disposition. 14435  
Within sixty days of submission of a petition, the attorney 14436  
general shall either deny the petition in writing, stating the 14437  
reasons for the denial, or initiate rule-making proceedings. There 14438  
is no right to appeal from such denial of a petition. 14439

(F) All rules shall be adopted subject to Chapter 119. of the 14440  
Revised Code. 14441

(G) The informational document published in accordance with 14442  
division (A)(4) of this section shall be made available for 14443  
distribution to consumers who are applying for a mortgage loan. An 14444  
acknowledgement of receipt shall be retained by the lender, 14445  
mortgage broker, and loan officer, as applicable, subject to 14446  
review by the attorney general and the department of commerce. 14447

**Sec. 1501.04.** There is hereby created in the department of 14448  
natural resources a recreation and resources commission composed 14449  
of the chairperson of the wildlife council created under section 14450  
1531.03 of the Revised Code, the chairperson of the parks and 14451  
recreation council created under section 1541.40 of the Revised 14452  
Code, the chairperson of the waterways safety council created 14453  
under section 1547.73 of the Revised Code, the chairperson of the 14454  
technical advisory council on oil and gas created under section 14455  
1509.38 of the Revised Code, the chairperson of the forestry 14456  
advisory council created under section 1503.40 of the Revised 14457  
Code, the chairperson of the Ohio soil and water conservation 14458  
commission created under section 1515.02 of the Revised Code, the 14459  
chairperson of the Ohio natural areas council created under 14460  
section 1517.03 of the Revised Code, the chairperson of the Ohio 14461

water advisory council created under section 1521.031 of the Revised Code, ~~the chairperson of the recycling and litter prevention advisory council created under section 1502.04 of the Revised Code,~~ the chairperson of the Ohio geology advisory council created under section 1505.11 of the Revised Code, and five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall belong to the same political party. The director of natural resources shall be an ex officio member of the commission, with a voice in its deliberations, but without the power to vote.

Terms of office of members of the commission appointed by the governor shall be for five years, commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed.

In the event of the death, removal, resignation, or incapacity of a member of the commission, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The governor may remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance in office.

The commission shall exercise no administrative function, but may do any of the following:

(A) Advise with and recommend to the director as to plans and programs for the management, development, utilization, and conservation of the natural resources of the state;

(B) Advise with and recommend to the director as to methods

of coordinating the work of the divisions of the department; 14493

(C) Consider and make recommendations upon any matter that 14494  
the director may submit to it; 14495

(D) Submit to the governor biennially recommendations for 14496  
amendments to the conservation laws of the state. 14497

Each member of the commission, before entering upon the 14498  
discharge of the member's duties, shall take and subscribe to an 14499  
oath of office, which oath, in writing, shall be filed in the 14500  
office of the secretary of state. 14501

The members of the commission shall serve without 14502  
compensation, but shall be entitled to receive their actual and 14503  
necessary expenses incurred in the performance of their official 14504  
duties. 14505

The commission, by a majority vote of all its members, shall 14506  
adopt and amend bylaws. 14507

To be eligible for appointment, a person shall be a citizen 14508  
of the United States and an elector of the state and shall possess 14509  
a knowledge of and have an interest in the natural resources of 14510  
this state. 14511

The commission shall hold at least four regular quarterly 14512  
meetings each year. Special meetings shall be held at such times 14513  
as the bylaws of the commission provide. Notices of all meetings 14514  
shall be given in such manner as the bylaws provide. The 14515  
commission shall choose annually from among its members a 14516  
chairperson to preside over its meetings and a secretary to keep a 14517  
record of its proceedings. A majority of the members of the 14518  
commission constitutes a quorum. No advice shall be given or 14519  
recommendation made without a majority of the members of the 14520  
commission concurring in it. 14521

**Sec. 1503.012.** There is hereby created in the state treasury 14522

the forestry mineral royalties fund. The fund shall consist of 14523  
money deposited into it under section 1509.73 of the Revised Code. 14524  
Any investment proceeds earned on money in the fund shall be 14525  
credited to the fund. 14526

Money in the fund shall be used by the division of forestry 14527  
to acquire land and to pay capital costs, including equipment and 14528  
repairs and renovations of facilities, that are owned by the state 14529  
and administered by the division. Expenditures from the fund for 14530  
those purposes shall be approved by the director of natural 14531  
resources. 14532

The director of natural resources also may request the 14533  
director of budget and management to transfer money from the 14534  
forestry mineral royalties fund to the parks mineral royalties 14535  
fund created in section 1541.26 of the Revised Code. The director 14536  
of budget and management shall transfer the money pursuant to the 14537  
request if the director consents to the request. Money that is 14538  
transferred to the parks mineral royalties fund shall be used for 14539  
the purposes specified in section 1541.26 of the Revised Code. 14540

**Sec. 1503.43.** (A) As used in this section: 14541

(1) "Wilderness area" means a contiguous area of relatively 14542  
undeveloped state-owned land administered by the division of 14543  
forestry and consisting of not less than five thousand acres or of 14544  
sufficient size as to make practicable its preservation and use in 14545  
an unimpaired condition that either has retained its natural 14546  
character and influence or has been substantially restored to a 14547  
near natural appearance and that meets both of the following 14548  
qualifications: 14549

(a) The area is one in which humankind's past influences are 14550  
largely unnoticed; 14551

(b) The area has outstanding opportunities for solitude or 14552

for a primitive and unconfined type of recreation. 14553

(2) "Utility facility" includes, without limitation, towers, 14554  
poles, pipes, sewers, tubing, conduits, conductors, cables, 14555  
valves, lines, wires, manholes, and appurtenances thereto owned by 14556  
a utility facility operator. 14557

(3) "Utility facility operator" means a person or public 14558  
authority that supplies any of the following materials or services 14559  
by means of a utility facility: 14560

(a) Flammable, toxic, or corrosive gas; 14561

(b) Crude oil, petroleum products, or hazardous liquids; 14562

(c) Coal; 14563

(d) Electricity; 14564

(e) Electronic, telephonic, or telegraphic communications; 14565

(f) Television signals; 14566

(g) Sewage disposal or drainage; 14567

(h) Potable water; 14568

(i) Steam or hot water. 14569

(B) That portion of contiguous state lands located in Scioto 14570  
and Adams counties and within the Shawnee state forest and bounded 14571  
by forest road seventeen and sunshine ridge to the north, by upper 14572  
Twin Creek road to the east and northeast, by United States route 14573  
fifty-two to the south, and by lower Twin Creek road to the west 14574  
and southwest is hereby designated the Shawnee wilderness area. 14575  
Except as otherwise specifically provided by this section or by 14576  
rule adopted under this chapter, the provisions of this chapter 14577  
apply to the Shawnee wilderness area, and that area shall continue 14578  
to be a part of the Shawnee state forest. 14579

(C) The Shawnee wilderness area shall be managed to preserve 14580  
natural conditions and ensure the continuance of natural 14581

processes. The chief of the division of forestry, with the 14582  
approval of the director of natural resources, shall administer 14583  
the Shawnee wilderness area in accordance with a management plan, 14584  
which the chief shall develop and adopt within one year after 14585  
September 14, 1988. Sixty days prior to adopting a plan, the chief 14586  
shall solicit public review and comment on a draft plan. At least 14587  
once every ten years, the chief shall conduct a review of the 14588  
plan, with public input, and revise the plan as appropriate. The 14589  
chief shall make the plan available for review by any person upon 14590  
request. 14591

(D) Notwithstanding any other authority granted to the chief 14592  
under this chapter, the chief shall include within the management 14593  
plan adopted under division (C) of this section prohibitions of 14594  
the following activities within the Shawnee wilderness area except 14595  
for the areas exempted in division (E) of this section: 14596

(1) Picking, removal, cutting, or alteration in any manner of 14597  
any vegetation unless the person first has obtained written 14598  
consent from the chief for that activity and the action is 14599  
necessary for appropriate public access, the preservation or 14600  
restoration of a plant or wildlife species, or the documentation 14601  
of scientific values; 14602

(2) Granting of any easement or license, or sale or lease of 14603  
any of the land, for any purpose. Division (D)(2) of this section 14604  
does not apply to any private easement or license in existence on 14605  
September 14, 1988. 14606

(3) Exploration for or extraction of any coal, oil, gas, or 14607  
minerals; 14608

(4) Operation, construction, or installation of a utility 14609  
facility above or below the surface of the land; 14610

(5) Operation of a commercial enterprise; 14611

(6) Except as provided in division (D)(7) of this section, 14612

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| construction of a road upon any of the land or use of the land as<br>a road;  | 14613<br>14614                            |
| (7) Except as is necessary to meet emergency requirements for<br>administration of the area:  | 14615<br>14616                            |
| (a) Landing of an aircraft;   | 14617                                     |
| (b) Operation of a motor vehicle, motor boat, other form of<br>mechanical transport, or motorized equipment;  | 14618<br>14619                            |
| (c) Construction of any building or other structure;  | 14620                                     |
| (d) Use of the land as a temporary road.  | 14621                                     |
| (E)(1) The following areas, which now are necessary for the<br>administration of the Shawnee state forest and the state forest<br>system, are not subject to the prohibitions of division (D) of<br>this section:   | 14622<br>14623<br>14624<br>14625          |
| (a) The Buena Vista manager's residence;  | 14626                                     |
| (b) The Buena Vista walnut seed orchard;  | 14627                                     |
| <del>(c) The Twin Creek fire tower.</del>   | 14628                                     |
| (2) <u>The following areas, which now are necessary for the<br/>administration of the Shawnee state forest and the state forest<br/>system, are not subject to the prohibition established in division<br/>(D)(7)(b) of this section for the purpose of trail maintenance:</u>  | 14629<br>14630<br>14631<br>14632          |
| <u>(a) The hiking trail west of upper Twin Creek road known as<br/>the wilderness loop;</u>   | 14633<br>14634                            |
| <u>(b) Buckhorn ridge bridle trail;</u>   | 14635                                     |
| <u>(c) Cabbage patch bridle trail.</u>  | 14636                                     |
| <u>(3) At any time that the chief makes a determination that it<br/>is no longer necessary for the administration of the Shawnee state<br/>forest or the state forest system for an area excluded in division<br/>(E)(1) or (2) of this section to be excluded, the area shall<br/>become subject to the prohibitions of <del>of</del> <u>established in</u> division (D)</u> | 14637<br>14638<br>14639<br>14640<br>14641 |

of this section or the prohibition established in division 14642  
(D)(7)(b) of this section, as applicable. 14643

(F) The chief, in developing a management plan under division 14644  
(C) of this section, may not prohibit any hunting, fishing, or 14645  
trapping that is done in conformity with Chapters 1531. and 1533. 14646  
of the Revised Code or any rules adopted under those chapters. 14647

**Sec. 1506.42.** The state, acting through the director of 14648  
natural resources, subject to section 1506.46 of the Revised Code, 14649  
may enter into agreements with counties, townships, municipal 14650  
corporations, park boards, and conservancy districts, other 14651  
political subdivisions, or any state departments or divisions for 14652  
the purpose of constructing and maintaining projects to control 14653  
erosion along the Ohio shoreline of Lake Erie and in any rivers 14654  
and bays that are connected with Lake Erie and any other 14655  
watercourses that flow into Lake Erie. Such projects also may be 14656  
constructed on any Lake Erie island that is situated within the 14657  
boundaries of the state. 14658

The cost of such shore erosion projects that are for the 14659  
benefit of public littoral property shall be prorated on the basis 14660  
of two-thirds of the total cost to the state through 14661  
appropriations made to the department of natural resources and 14662  
one-third of the cost to the counties, townships, municipal 14663  
corporations, park boards, conservancy districts, or other 14664  
political subdivisions. 14665

If a shore erosion emergency is declared by the governor, the 14666  
state, acting through the director, may spend whatever state funds 14667  
are available to alleviate shore erosion, without participation by 14668  
any political subdivision, regardless of whether the project will 14669  
benefit public or private littoral property. 14670

A board of county commissioners, acting for the county over 14671  
which it has jurisdiction, may enter into and carry out agreements 14672

with the director for the construction and maintenance of projects 14673  
to control shore erosion. In providing the funds for the county's 14674  
proportionate share of the cost of constructing and maintaining 14675  
the projects referred to in this section, the board shall be 14676  
governed by and may issue and refund bonds in accordance with 14677  
Chapter 133. of the Revised Code. 14678

A municipal corporation or a township, acting through the 14679  
legislative authority or the board of township trustees, may enter 14680  
into and carry out agreements with the director for the purpose of 14681  
constructing and maintaining projects to control shore erosion. In 14682  
providing the funds for the municipal corporation's or township's 14683  
proportionate share of the cost of constructing and maintaining 14684  
the projects referred to in this section, a municipal corporation 14685  
or township may issue and refund bonds in accordance with Chapter 14686  
133. of the Revised Code. The contract shall be executed on behalf 14687  
of the municipal corporation or township by the mayor, city 14688  
manager, or other chief executive officer who has the authority to 14689  
act for the municipal corporation or township. 14690

Conservancy districts may enter into and carry out agreements 14691  
with the director, in accordance with the intent of this section, 14692  
under the powers conferred upon conservancy districts under 14693  
Chapter 6101. of the Revised Code. 14694

Park boards may enter into and carry out agreements with the 14695  
director, in accordance with the intent of this section, and issue 14696  
bonds for that purpose under the powers conferred upon park 14697  
districts under Chapter 1545. of the Revised Code. 14698

The director shall approve and supervise all projects that 14699  
are to be constructed in accordance with this section. The 14700  
director shall not proceed with the construction of any project 14701  
until all funds that are to be paid by the county, township, 14702  
municipal corporation, park board, or conservancy district, in 14703  
accordance with the terms of the agreement entered into between 14704

the director and the county, township, municipal corporation, park board, or conservancy district, are in the director's possession and deposited in the shore erosion fund, which is hereby created in the state treasury. If the director finds it to be in the best interests of the state to construct projects as set forth in this section by the state itself, without the financial contribution of counties, townships, municipal corporations, park boards, or conservancy districts, the director may construct the projects.

In deciding whether to assist a county or municipal corporation in constructing and maintaining a project under this section, the state, acting through the director, shall consider, among other factors, whether the county or municipal corporation has adopted or is in the process of adopting a Lake Erie coastal erosion area resolution or ordinance under division (D) of section 1506.07 of the Revised Code.

All projects constructed by the state in conformity with sections 1506.38 to 1506.46 of the Revised Code shall be constructed subject to sections 153.01 to 153.20 of the Revised Code, except that the ~~state architect and engineer~~ Ohio facilities construction commission is not required to prepare the plans and specifications for those projects.

**Sec. 1509.071.** (A) When the chief of the division of oil and gas resources management finds that an owner has failed to comply with a final nonappealable order issued or compliance agreement entered into under section 1509.04, the restoration requirements of section 1509.072, plugging requirements of section 1509.12, or permit provisions of section 1509.13 of the Revised Code, or rules and orders relating thereto, the chief shall make a finding of that fact and declare any surety bond filed to ensure compliance with those sections and rules forfeited in the amount set by rule of the chief. The chief thereupon shall certify the total

forfeiture to the attorney general, who shall proceed to collect 14736  
the amount of the forfeiture. In addition, the chief may require 14737  
an owner, operator, producer, or other person who forfeited a 14738  
surety bond to post a new surety bond in the amount of fifteen 14739  
thousand dollars for a single well, thirty thousand dollars for 14740  
two wells, or fifty thousand dollars for three or more wells. 14741

In lieu of total forfeiture, the surety or owner, at the 14742  
surety's or owner's option, may cause the well to be properly 14743  
plugged and abandoned and the area properly restored or pay to the 14744  
treasurer of state the cost of plugging and abandonment. 14745

(B) All moneys collected because of forfeitures of bonds as 14746  
provided in this section shall be deposited in the state treasury 14747  
to the credit of the oil and gas well fund created in section 14748  
1509.02 of the Revised Code. 14749

The chief annually shall spend not less than fourteen per 14750  
cent of the revenue credited to the fund during the previous 14751  
fiscal year for the following purposes: 14752

(1) In accordance with division (D) of this section, to plug 14753  
idle and orphaned wells or to restore the land surface properly as 14754  
required in section 1509.072 of the Revised Code; 14755

(2) In accordance with division (E) of this section, to 14756  
correct conditions that the chief reasonably has determined are 14757  
causing imminent health or safety risks at an idle and orphaned 14758  
well or a well for which the owner cannot be contacted in order to 14759  
initiate a corrective action within a reasonable period of time as 14760  
determined by the chief. 14761

Expenditures from the fund shall be made only for lawful 14762  
purposes. In addition, expenditures from the fund shall not be 14763  
made to purchase real property or to remove a dwelling in order to 14764  
access a well. 14765

(C)(1) Upon determining that the owner of a well has failed 14766

to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Determine from the records in the office of the county recorder of the county in which the well is located the identity of the owner of the land on which the well is located, the identity of the owner of the oil or gas lease under which the well was drilled or the identity of each person owning an interest in the lease, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well;

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner of the well or if any persons other than the owner of the well own interests in the lease, the chief also shall mail notice that the well is to be plugged to the owner of the lease or to each person owning an interest in the lease, as appropriate.

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.

(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state

for use to defray the cost of plugging and abandoning the well and 14799  
restoring the land surface at the well site. 14800

(D) Expenditures from the fund for the purpose of division 14801  
(B)(1) of this section shall be made in accordance with either of 14802  
the following: 14803

(1) The expenditures may be made pursuant to contracts 14804  
entered into by the chief with persons who agree to furnish all of 14805  
the materials, equipment, work, and labor as specified and 14806  
provided in such a contract for activities associated with the 14807  
restoration or plugging of a well as determined by the chief. The 14808  
activities may include excavation to uncover a well, geophysical 14809  
methods to locate a buried well when clear evidence of leakage 14810  
from the well exists, cleanout of wellbores to remove material 14811  
from a failed plugging of a well, plugging operations, 14812  
installation of vault and vent systems, including associated 14813  
engineering certifications and permits, restoration of property, 14814  
and repair of damage to property that is caused by such 14815  
activities. Expenditures shall not be used for salaries, 14816  
maintenance, equipment, or other administrative purposes, except 14817  
for costs directly attributed to the plugging of an idle and 14818  
orphaned well. Agents or employees of persons contracting with the 14819  
chief for a restoration or plugging project may enter upon any 14820  
land, public or private, on which the well is located for the 14821  
purpose of performing the work. Prior to such entry, the chief 14822  
shall give to the following persons written notice of the 14823  
existence of a contract for a project to restore or plug a well, 14824  
the names of the persons with whom the contract is made, and the 14825  
date that the project will commence: the owner of the well, the 14826  
owner of the land upon which the well is located, the owner or 14827  
agents of adjoining land, and, if the well is located in the same 14828  
township as or in a township adjacent to the excavations and 14829  
workings of a mine and the owner or lessee of that mine has 14830

provided written notice identifying those townships to the chief 14831  
at any time during the immediately preceding three years, the 14832  
owner or lessee of the mine. 14833

(2)(a) The owner of the land on which a well is located who 14834  
has received notice under division (C)(1)(b) of this section may 14835  
plug the well and be reimbursed by the division of oil and gas 14836  
resources management for the reasonable cost of plugging the well. 14837  
In order to plug the well, the landowner shall submit an 14838  
application to the chief on a form prescribed by the chief and 14839  
approved by the technical advisory council on oil and gas created 14840  
in section 1509.38 of the Revised Code. The application, at a 14841  
minimum, shall require the landowner to provide the same 14842  
information as is required to be included in the application for a 14843  
permit to plug and abandon under section 1509.13 of the Revised 14844  
Code. The application shall be accompanied by a copy of a proposed 14845  
contract to plug the well prepared by a contractor regularly 14846  
engaged in the business of plugging oil and gas wells. The 14847  
proposed contract shall require the contractor to furnish all of 14848  
the materials, equipment, work, and labor necessary to plug the 14849  
well properly and shall specify the price for doing the work, 14850  
including a credit for the equipment appurtenant to the well that 14851  
was forfeited to the state through the operation of division 14852  
(C)(2) of this section. Expenditures under division (D)(2)(a) of 14853  
this section shall be consistent with the expenditures for 14854  
activities described in division (D)(1) of this section. The 14855  
application also shall be accompanied by the permit fee required 14856  
by section 1509.13 of the Revised Code unless the chief, in the 14857  
chief's discretion, waives payment of the permit fee. The 14858  
application constitutes an application for a permit to plug and 14859  
abandon the well for the purposes of section 1509.13 of the 14860  
Revised Code. 14861

(b) Within thirty days after receiving an application and 14862

accompanying proposed contract under division (D)(2)(a) of this 14863  
section, the chief shall determine whether the plugging would 14864  
comply with the applicable requirements of this chapter and 14865  
applicable rules adopted and orders issued under it and whether 14866  
the cost of the plugging under the proposed contract is 14867  
reasonable. If the chief determines that the proposed plugging 14868  
would comply with those requirements and that the proposed cost of 14869  
the plugging is reasonable, the chief shall notify the landowner 14870  
of that determination and issue to the landowner a permit to plug 14871  
and abandon the well under section 1509.13 of the Revised Code. 14872  
Upon approval of the application and proposed contract, the chief 14873  
shall transfer ownership of the equipment appurtenant to the well 14874  
to the landowner. The chief may disapprove an application 14875  
submitted under division (D)(2)(a) of this section if the chief 14876  
determines that the proposed plugging would not comply with the 14877  
applicable requirements of this chapter and applicable rules 14878  
adopted and orders issued under it, that the cost of the plugging 14879  
under the proposed contract is unreasonable, or that the proposed 14880  
contract is not a bona fide, arm's length contract. 14881

(c) After receiving the chief's notice of the approval of the 14882  
application and permit to plug and abandon a well under division 14883  
(D)(2)(b) of this section, the landowner shall enter into the 14884  
proposed contract to plug the well. 14885

(d) Upon determining that the plugging has been completed in 14886  
compliance with the applicable requirements of this chapter and 14887  
applicable rules adopted and orders issued under it, the chief 14888  
shall reimburse the landowner for the cost of the plugging as set 14889  
forth in the proposed contract approved by the chief. The 14890  
reimbursement shall be paid from the oil and gas well fund. If the 14891  
chief determines that the plugging was not completed in accordance 14892  
with the applicable requirements, the chief shall not reimburse 14893  
the landowner for the cost of the plugging, and the landowner or 14894

the contractor, as applicable, promptly shall transfer back to 14895  
this state title to and possession of the equipment appurtenant to 14896  
the well that previously was transferred to the landowner under 14897  
division (D)(2)(b) of this section. If any such equipment was 14898  
removed from the well during the plugging and sold, the landowner 14899  
shall pay to the chief the proceeds from the sale of the 14900  
equipment, and the chief promptly shall pay the moneys so received 14901  
to the treasurer of state for deposit into the oil and gas well 14902  
fund. 14903

The chief may establish an annual limit on the number of 14904  
wells that may be plugged under division (D)(2) of this section or 14905  
an annual limit on the expenditures to be made under that 14906  
division. 14907

As used in division (D)(2) of this section, "plug" and 14908  
"plugging" include the plugging of the well and the restoration of 14909  
the land surface disturbed by the plugging. 14910

(E) Expenditures from the oil and gas well fund for the 14911  
purpose of division (B)(2) of this section may be made pursuant to 14912  
contracts entered into by the chief with persons who agree to 14913  
furnish all of the materials, equipment, work, and labor as 14914  
specified and provided in such a contract. The competitive bidding 14915  
requirements of Chapter 153. of the Revised Code do not apply if 14916  
the chief reasonably determines that an emergency situation exists 14917  
requiring immediate action for the correction of the applicable 14918  
health or safety risk ~~requires immediate action.~~ A contract or 14919  
purchase of materials for purposes of addressing the emergency 14920  
situation is not subject to division (B) of section 127.16 of the 14921  
Revised Code. The chief, designated representatives of the chief, 14922  
and agents or employees of persons contracting with the chief 14923  
under this division may enter upon any land, public or private, 14924  
for the purpose of performing the work. 14925

(F) Contracts entered into by the chief under this section 14926

are not subject to ~~either~~ any of the following: 14927

(1) Chapter 4115. of the Revised Code; 14928

(2) Section 153.54 of the Revised Code, except that the 14929  
contractor shall obtain and provide to the chief as a bid guaranty 14930  
a surety bond or letter of credit in an amount equal to ten per 14931  
cent of the amount of the contract; 14932

(3) Section 4733.17 of the Revised Code. 14933

(G) The owner of land on which a well is located who has 14934  
received notice under division (C)(1)(b) of this section, in lieu 14935  
of plugging the well in accordance with division (D)(2) of this 14936  
section, may cause ownership of the well to be transferred to an 14937  
owner who is lawfully doing business in this state and who has met 14938  
the financial responsibility requirements established under 14939  
section 1509.07 of the Revised Code, subject to the approval of 14940  
the chief. The transfer of ownership also shall be subject to the 14941  
landowner's filing the appropriate forms required under section 14942  
1509.31 of the Revised Code and providing to the chief sufficient 14943  
information to demonstrate the landowner's or owner's right to 14944  
produce a formation or formations. That information may include a 14945  
deed, a lease, or other documentation of ownership or property 14946  
rights. 14947

The chief shall approve or disapprove the transfer of 14948  
ownership of the well. If the chief approves the transfer, the 14949  
owner is responsible for operating the well in accordance with 14950  
this chapter and rules adopted under it, including, without 14951  
limitation, all of the following: 14952

(1) Filing an application with the chief under section 14953  
1509.06 of the Revised Code if the owner intends to drill deeper 14954  
or produce a formation that is not listed in the records of the 14955  
division for that well; 14956

(2) Taking title to and possession of the equipment 14957

appurtenant to the well that has been identified by the chief as 14958  
having been abandoned by the former owner; 14959

(3) Complying with all applicable requirements that are 14960  
necessary to drill deeper, plug the well, or plug back the well. 14961

(H) The chief shall issue an order that requires the owner of 14962  
a well to pay the actual documented costs of a corrective action 14963  
that is described in division (B)(2) of this section concerning 14964  
the well. The chief shall transmit the money so recovered to the 14965  
treasurer of state who shall deposit the money in the state 14966  
treasury to the credit of the oil and gas well fund. 14967

(I) The chief may engage in cooperative projects under this 14968  
section with any agency of this state, another state, or the 14969  
United States; any other governmental agencies; or any state 14970  
university or college as defined in section 3345.27 of the Revised 14971  
Code. A contract entered into for purposes of a cooperative 14972  
project is not subject to division (B) of section 127.16 of the 14973  
Revised Code. 14974

**Sec. 1533.081.** (A) As used in this section: 14975

(1) "Energy" has the same meaning as in section 1551.01 of 14976  
the Revised Code. 14977

(2) "Energy facility" means a facility at which energy is 14978  
produced. 14979

(B) A person operating an energy facility whose operation may 14980  
result in the incidental taking of a wild animal shall obtain a 14981  
permit to do so from the chief of the division of wildlife under 14982  
this section. The chief shall adopt rules under section 1531.10 of 14983  
the Revised Code that are necessary to administer this section. 14984

**Sec. 1533.10.** Except as provided in this section or division 14985  
(A)(2) of section 1533.12 of the Revised Code, no person shall 14986

hunt any wild bird or wild quadruped without a hunting license. 14987  
Each day that any person hunts within the state without procuring 14988  
such a license constitutes a separate offense. Except as otherwise 14989  
provided in this section, every applicant for a hunting license 14990  
who is a resident of the state and eighteen years of age or more 14991  
shall procure a resident hunting license or an apprentice resident 14992  
hunting license, the fee for which shall be eighteen dollars 14993  
unless the rules adopted under division (B) of section 1533.12 of 14994  
the Revised Code provide for issuance of a resident hunting 14995  
license to the applicant free of charge. Except as provided in 14996  
rules adopted under division (B)(2) of that section, each 14997  
applicant who is a resident of this state and who at the time of 14998  
application is sixty-six years of age or older shall procure a 14999  
special senior hunting license, the fee for which shall be 15000  
one-half of the regular hunting license fee. Every applicant who 15001  
is under the age of eighteen years shall procure a special youth 15002  
hunting license or an apprentice youth hunting license, the fee 15003  
for which shall be one-half of the regular hunting license fee. 15004

A resident of this state who owns lands in the state and the 15005  
owner's children of any age and grandchildren under eighteen years 15006  
of age may hunt on the lands without a hunting license. A resident 15007  
of any other state who owns real property in this state, and the 15008  
spouse and children living with the property owner, may hunt on 15009  
that property without a license, provided that the state of 15010  
residence of the real property owner allows residents of this 15011  
state owning real property in that state, and the spouse and 15012  
children living with the property owner, to hunt without a 15013  
license. If the owner of land in this state is a limited liability 15014  
company or a limited liability partnership that consists of three 15015  
or fewer individual members or partners, as applicable, an 15016  
individual member or partner who is a resident of this state and 15017  
the member's or partner's children of any age and grandchildren 15018  
under eighteen years of age may hunt on the land owned by the 15019

limited liability company or limited liability partnership without 15020  
a hunting license. In addition, if the owner of land in this state 15021  
is a trust that has a total of three or fewer trustees and 15022  
beneficiaries, an individual who is a trustee or beneficiary and 15023  
who is a resident of this state and the individual's children of 15024  
any age and grandchildren under eighteen years of age may hunt on 15025  
the land owned by the trust without a hunting license. The tenant 15026  
and children of the tenant, residing on lands in the state, may 15027  
hunt on them without a hunting license. 15028

Except as otherwise provided in division (A)(1) of section 15029  
1533.12 of the Revised Code, every applicant for a hunting license 15030  
who is a nonresident of the state and who is eighteen years of age 15031  
or older shall procure a nonresident hunting license or an 15032  
apprentice nonresident hunting license, the fee for which shall be 15033  
one hundred twenty-four dollars unless the applicant is a resident 15034  
of a state that is a party to an agreement under section 1533.91 15035  
of the Revised Code, in which case the fee shall be eighteen 15036  
dollars. Apprentice resident hunting licenses, apprentice youth 15037  
hunting licenses, and apprentice nonresident hunting licenses are 15038  
subject to the requirements established under section 1533.102 of 15039  
the Revised Code and rules adopted pursuant to it. 15040

The chief of the division of wildlife may issue a small game 15041  
hunting license expiring three days from the effective date of the 15042  
license to a nonresident of the state, the fee for which shall be 15043  
thirty-nine dollars. No person shall take or possess deer, wild 15044  
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 15045  
animal while possessing only a small game hunting license. A small 15046  
game hunting license or an apprentice nonresident hunting license 15047  
does not authorize the taking or possessing of ducks, geese, or 15048  
brant without having obtained, in addition to the small game 15049  
hunting license or the apprentice nonresident hunting license, a 15050  
wetlands habitat stamp as provided in section 1533.112 of the 15051

Revised Code. A small game hunting license or an apprentice 15052  
nonresident hunting license does not authorize the taking or 15053  
possessing of deer, wild turkeys, or fur-bearing animals. A 15054  
nonresident of the state who wishes to take or possess deer, wild 15055  
turkeys, or fur-bearing animals in this state shall procure, 15056  
respectively, a deer or wild turkey permit as provided in section 15057  
1533.11 of the Revised Code or a fur taker permit as provided in 15058  
section 1533.111 of the Revised Code in addition to a nonresident 15059  
hunting license, an apprentice nonresident hunting license, a 15060  
special youth hunting license, or an apprentice youth hunting 15061  
license, as applicable, as provided in this section. 15062

No person shall procure or attempt to procure a hunting 15063  
license by fraud, deceit, misrepresentation, or any false 15064  
statement. 15065

This section does not authorize the taking and possessing of 15066  
deer or wild turkeys without first having obtained, in addition to 15067  
the hunting license required by this section, a deer or wild 15068  
turkey permit as provided in section 1533.11 of the Revised Code 15069  
or the taking and possessing of ducks, geese, or brant without 15070  
first having obtained, in addition to the hunting license required 15071  
by this section, a wetlands habitat stamp as provided in section 15072  
1533.112 of the Revised Code. 15073

This section does not authorize the hunting or trapping of 15074  
fur-bearing animals without first having obtained, in addition to 15075  
a hunting license required by this section, a fur taker permit as 15076  
provided in section 1533.111 of the Revised Code. 15077

No hunting license shall be issued unless it is accompanied 15078  
by a written explanation of the law in section 1533.17 of the 15079  
Revised Code and the penalty for its violation, including a 15080  
description of terms of imprisonment and fines that may be 15081  
imposed. 15082

No hunting license, other than an apprentice hunting license, 15083  
shall be issued unless the applicant presents to the agent 15084  
authorized to issue the license a previously held hunting license 15085  
or evidence of having held such a license in content and manner 15086  
approved by the chief, a certificate of completion issued upon 15087  
completion of a hunter education and conservation course approved 15088  
by the chief, or evidence of equivalent training in content and 15089  
manner approved by the chief. A previously held apprentice hunting 15090  
license does not satisfy the requirement concerning the 15091  
presentation of a previously held hunting license or evidence of 15092  
it. 15093

No person shall issue a hunting license, except an apprentice 15094  
hunting license, to any person who fails to present the evidence 15095  
required by this section. No person shall purchase or obtain a 15096  
hunting license, other than an apprentice hunting license, without 15097  
presenting to the issuing agent the evidence required by this 15098  
section. Issuance of a hunting license in violation of the 15099  
requirements of this section is an offense by both the purchaser 15100  
of the illegally obtained hunting license and the clerk or agent 15101  
who issued the hunting license. Any hunting license issued in 15102  
violation of this section is void. 15103

The chief, with approval of the wildlife council, shall adopt 15104  
rules prescribing a hunter education and conservation course for 15105  
first-time hunting license buyers, other than buyers of apprentice 15106  
hunting licenses, and for volunteer instructors. The course shall 15107  
consist of subjects including, but not limited to, hunter safety 15108  
and health, use of hunting implements, hunting tradition and 15109  
ethics, the hunter and conservation, the law in section 1533.17 of 15110  
the Revised Code along with the penalty for its violation, 15111  
including a description of terms of imprisonment and fines that 15112  
may be imposed, and other law relating to hunting. Authorized 15113  
personnel of the division or volunteer instructors approved by the 15114

chief shall conduct such courses with such frequency and at such 15115  
locations throughout the state as to reasonably meet the needs of 15116  
license applicants. The chief shall issue a certificate of 15117  
completion to each person who successfully completes the course 15118  
and passes an examination prescribed by the chief. 15119

**Sec. 1541.26.** There is hereby created in the state treasury 15120  
the parks mineral royalties fund. The fund shall consist of money 15121  
deposited into it under section 1509.73 of the Revised Code and 15122  
money transferred to it under section 1503.012 of the Revised 15123  
Code. Any investment proceeds earned on money in the fund shall be 15124  
credited to the fund. 15125

Money in the fund shall be used by the division of parks and 15126  
recreation to acquire land and to pay capital costs, including 15127  
equipment and repairs and renovations of facilities, that are 15128  
owned by the state and administered by the division. Expenditures 15129  
from the fund shall be approved by the director of natural 15130  
resources. 15131

**Sec. 1551.33.** (A) The director of development shall appoint 15132  
and fix the compensation of the director of the Ohio coal 15133  
development office. The director shall serve at the pleasure of 15134  
the director of development. 15135

(B) The director of the office shall do all of the following: 15136

(1) Biennially prepare and maintain the Ohio coal development 15137  
agenda required under section 1551.34 of the Revised Code; 15138

(2) Propose and support policies for the office consistent 15139  
with the Ohio coal development agenda and develop means to 15140  
implement the agenda; 15141

(3) Initiate, undertake, and support projects to carry out 15142  
the office's purposes and ensure that the projects are consistent 15143  
with and meet the selection criteria established by the Ohio coal 15144

development agenda; 15145

(4) Actively encourage joint participation in and, when 15146  
feasible, joint funding of the office's projects with governmental 15147  
agencies, electric utilities, universities and colleges, other 15148  
public or private interests, or any other person; 15149

(5) Establish a table of organization for and employ such 15150  
employees and agents as are necessary for the administration and 15151  
operation of the office. Any such employees shall be in the 15152  
unclassified service and shall serve at the pleasure of the 15153  
director of development. 15154

(6) Appoint specified members of and convene the technical 15155  
advisory committee established under section 1551.35 of the 15156  
Revised Code; 15157

(7) Review, with the assistance of the technical advisory 15158  
committee, proposed coal research and development projects as 15159  
defined in section 1555.01 of the Revised Code, and coal 15160  
development projects, submitted to the office by public utilities 15161  
for the purpose of section 4905.304 of the Revised Code. If the 15162  
director and the advisory committee determine that any such 15163  
facility or project has as its purpose the enhanced use of Ohio 15164  
coal in an environmentally acceptable, cost effective manner, 15165  
promotes energy conservation, is cost effective, and is 15166  
environmentally sound, the director shall submit to the public 15167  
utilities commission a report recommending that the commission 15168  
allow the recovery of costs associated with the facility or 15169  
project under section 4905.304 of the Revised Code and including 15170  
the reasons for the recommendation. 15171

(8) Establish such policies, procedures, and guidelines as 15172  
are necessary to achieve the office's purposes. 15173

(C) ~~The~~ With the approval of the director of development, the 15174  
director of the office may exercise any of the powers and duties 15175

that the director of ~~the office~~ development considers appropriate 15176  
or desirable to achieve the office's purposes, including, but not 15177  
limited to, the powers and duties enumerated in sections 1551.11, 15178  
1551.12, and 1551.15 of the Revised Code. 15179

Additionally, the director of the office may make loans to 15180  
governmental agencies or persons for projects to carry out the 15181  
office's purposes. Fees, charges, rates of interest, times of 15182  
payment of interest and principal, and other terms, conditions, 15183  
and provisions of the loans shall be such as the director of the 15184  
office determines to be appropriate and in furtherance of the 15185  
purposes for which the loans are made. The mortgage lien securing 15186  
any moneys lent by the director of the office may be subordinate 15187  
to the mortgage lien securing any moneys lent or invested by a 15188  
financial institution, but shall be superior to that securing any 15189  
moneys lent or expended by any other person. The moneys used in 15190  
making the loans shall be disbursed upon order of the director of 15191  
the office. 15192

**Sec. 1555.02.** It is hereby declared to be the public policy 15193  
of this state through the operations of the Ohio coal development 15194  
office under this chapter to contribute toward one or more of the 15195  
following: to provide for the comfort, health, safety, and general 15196  
welfare of all employees and other inhabitants of this state 15197  
through research and development directed toward the discovery of 15198  
new technologies or the demonstration or application of existing 15199  
technologies to enable the conversion or use of Ohio coal as a 15200  
fuel or chemical feedstock in an environmentally acceptable manner 15201  
thereby enhancing the marketability and fostering the use of this 15202  
state's vast reserves of coal, to assist in the financing of coal 15203  
research and development and coal research and development 15204  
projects or facilities for persons doing business in this state 15205  
and educational and scientific institutions located in this state, 15206  
to create or preserve jobs and employment opportunities or improve 15207

the economic welfare of the people of this state, or to assist and 15208  
cooperate with such persons and educational and scientific 15209  
institutions in conducting coal research and development. In 15210  
furtherance of this public policy, the Ohio coal development 15211  
office, with the advice of the technical advisory committee 15212  
created in section 1551.35 of the Revised Code and the approval of 15213  
the director of development, may make loans, guarantee loans, and 15214  
make grants to persons doing business in this state or to 15215  
educational or scientific institutions located in this state for 15216  
coal research and development projects by such persons or 15217  
educational or scientific institutions; may, with the advice of 15218  
the technical advisory committee and the approval of the director 15219  
of development, request the issuance of coal research and 15220  
development general obligations under section 151.07 of the 15221  
Revised Code to provide funds for making such loans, loan 15222  
guarantees, and grants; and may, with the advice of the technical 15223  
advisory committee and the approval of the director of 15224  
development, expend moneys credited to the coal research and 15225  
development fund created in section 1555.15 of the Revised Code 15226  
for the purpose of making such loans, loan guarantees, and grants. 15227  
Determinations by the director of the Ohio coal development office 15228  
that coal research and development or a coal research and 15229  
development facility is a coal research and development project 15230  
under this chapter and is consistent with the purposes of Section 15231  
15 of Article VIII, Ohio Constitution, and this chapter shall be 15232  
conclusive as to the validity and enforceability of the coal 15233  
research and development general obligations issued to finance 15234  
such project and of the authorizations, trust agreements or 15235  
indentures, loan agreements, loan guarantee agreements, or grant 15236  
agreements, and other agreements made in connection therewith, all 15237  
in accordance with their terms. 15238

**Sec. 1555.03.** For the purposes of this chapter, the director 15239

of the Ohio coal development office may: 15240

(A) With the advice of the technical advisory committee 15241  
created in section 1551.35 of the Revised Code and the approval of 15242  
the director of development, make loans, guarantee loans, and make 15243  
grants to persons doing business in this state or to educational 15244  
or scientific institutions located in this state for coal research 15245  
and development projects by any such person or educational or 15246  
scientific institution and adopt rules under Chapter 119. of the 15247  
Revised Code for making such loans, guarantees, and grants. 15248

(B) In making loans, loan guarantees, and grants under 15249  
division (A) of this section and section 1555.04 of the Revised 15250  
Code, the director of the office shall ensure that an adequate 15251  
portion of the total amount of those loans, loan guarantees, and 15252  
grants, as determined by the director with the advice of the 15253  
technical advisory committee, is used for conducting research on 15254  
fundamental scientific problems related to the utilization of Ohio 15255  
coal and shall ensure, to the maximum feasible extent, joint 15256  
financial participation by the federal government or other 15257  
investors or interested parties in conjunction with any such loan, 15258  
loan guarantee, or grant. The director, in each grant agreement or 15259  
contract under division (A) of this section, loan contract or 15260  
agreement under this division or section 1555.04 of the Revised 15261  
Code, and contract of guarantee under section 1555.05 of the 15262  
Revised Code, shall require that the facility or project be 15263  
maintained and kept in good condition and repair by the person or 15264  
educational or scientific institution to whom the grant or loan 15265  
was made or for whom the guarantee was made. 15266

(C) From time to time, with the advice of the technical 15267  
advisory committee and the approval of the director of 15268  
development, request the issuance of coal research and development 15269  
general obligations under section 151.07 of the Revised Code, for 15270  
any of the purposes set forth in Section 15 of Article VIII, Ohio 15271

Constitution, and subject to the limitations therein upon the 15272  
aggregate total amount of obligations that may be outstanding at 15273  
any time. 15274

(D) Include as a condition of any loan, loan guarantee, or 15275  
grant contract or agreement with any such person or educational or 15276  
scientific institution that the director of the office receive, in 15277  
addition to payments of principal and interest on any such loan or 15278  
service charges for any such guarantee, as appropriate, as 15279  
authorized by Section 15~~7~~ of Article VIII, Ohio Constitution, a 15280  
reasonable royalty or portion of the income or profits arising out 15281  
of the developments, discoveries, or inventions, including patents 15282  
or copyrights, that result in whole or in part from coal research 15283  
and development projects conducted under any such contract or 15284  
agreement, in such amounts and for such period of years as may be 15285  
negotiated and provided by the contract or agreement in advance of 15286  
the making of the grant, loan, or loan guarantee. Moneys received 15287  
by the director of the office under this section may be credited 15288  
to the coal research and development bond service fund or used to 15289  
make additional loans, loan guarantees, grants, or agreements 15290  
under this section. 15291

(E) Employ managers, superintendents, and other employees and 15292  
retain or contract with consulting engineers, financial 15293  
consultants, accounting experts, architects, and such other 15294  
consultants and independent contractors as are necessary in the 15295  
judgment of the director of the office to carry out this chapter, 15296  
and fix the compensation thereof. 15297

(F) Receive and accept from any federal agency, subject to 15298  
the approval of the governor, grants for or in aid of the 15299  
construction or operation of any coal research and development 15300  
project or for coal research and development, and receive and 15301  
accept aid or contributions from any source of money, property, 15302  
labor, or other things of value, to be held, used, and applied 15303

only for the purposes for which such grants and contributions are 15304  
made. 15305

(G) Purchase fire and extended coverage and liability 15306  
insurance for any coal research and development project, insurance 15307  
protecting the office and its officers and employees against 15308  
liability for damage to property or injury to or death of persons 15309  
arising from its operations, and any other insurance the director 15310  
of the office determines necessary or proper under this chapter. 15311  
Any moneys received by the director from the proceeds of any such 15312  
insurance with respect to a coal research and development project 15313  
and any moneys received by the director from the proceeds of any 15314  
settlement, judgment, foreclosure, or other insurance with respect 15315  
to a coal research and development project or facility shall be 15316  
credited to the coal research and development bond service fund. 15317

(H) In the exercise of the powers of the director of the 15318  
office under this chapter, call to the director's assistance, 15319  
temporarily, from time to time, any engineers, technical experts, 15320  
financial experts, and other employees in any state department, 15321  
agency, or commission, or in the Ohio state university, or other 15322  
educational institutions financed wholly or partially by this 15323  
state for purposes of assisting the director of the office with 15324  
reviewing and evaluating applications for financial assistance 15325  
under this chapter, monitoring performance of coal research and 15326  
development projects receiving financial assistance under this 15327  
chapter, and reviewing and evaluating the progress and findings of 15328  
those projects. Such engineers, experts, and employees shall not 15329  
receive any additional compensation over that which they receive 15330  
from the department, agency, commission, or educational 15331  
institution by which they are employed, but they shall be 15332  
reimbursed for their actual and necessary expenses incurred while 15333  
working under the direction of the director. 15334

(I) Do all acts necessary or proper to carry out the powers 15335

expressly granted in this chapter. 15336

**Sec. 1555.04.** (A) With respect to coal research and 15337  
development projects financed wholly or partially from a loan or 15338  
loan guarantee under this chapter, the director of the Ohio coal 15339  
development office, in addition to other powers under this 15340  
chapter, with the advice of the technical advisory committee 15341  
created in section 1551.35 of the Revised Code and the approval of 15342  
the director of development, may enter into loan agreements, 15343  
accept notes and other forms of obligation to evidence such 15344  
indebtedness and mortgages, liens, pledges, assignments, or other 15345  
security interests to secure such indebtedness, which may be prior 15346  
or subordinate to or on a parity with other indebtedness, 15347  
obligations, mortgages, pledges, assignments, other security 15348  
interests, or liens or encumbrances, and take such actions as the 15349  
director of the office considers appropriate to protect such 15350  
security and safeguard against losses, including, without 15351  
limitation, foreclosure and the bidding upon and purchase of 15352  
property upon foreclosure or other sale. 15353

(B) The authority granted by this section is cumulative and 15354  
supplementary to all other authority granted in this chapter. The 15355  
authority granted by this section does not alter or impair any 15356  
similar authority granted elsewhere in this chapter with respect 15357  
to other projects. 15358

**Sec. 1555.05.** (A) Subject to any limitations as to aggregate 15359  
amounts thereof that may from time to time be prescribed by the 15360  
general assembly and to other applicable provisions of this 15361  
chapter, and subject to the one-hundred-million-dollar limitation 15362  
provided in Section 15 of Article VIII, Ohio Constitution, the 15363  
director of the Ohio coal development office, on behalf of this 15364  
state, with the advice of the technical advisory committee created 15365  
in section 1551.35 of the Revised Code and the approval of the 15366

director of development, may enter into contracts to guarantee the 15367  
repayment or payment of the unpaid principal amount of loans made 15368  
to pay the costs of coal research and development projects. 15369

(B) The contract of guarantee may make provision for the 15370  
conditions of, time for, and manner of fulfillment of the 15371  
guarantee commitment, subrogation of this state to the rights of 15372  
the parties guaranteed and exercise of such parties' rights by the 15373  
state, giving the state the option of making payment of the 15374  
principal amount guaranteed in one or more installments and, if 15375  
deferred, to pay interest thereon from the source specified in 15376  
division (A) of this section, and any other terms or conditions 15377  
customary to such guarantees and as the director of the office may 15378  
approve, and may contain provisions for securing the guarantee in 15379  
the manner consistent with this section, covenants on behalf of 15380  
this state to issue obligations under section 1555.08 of the 15381  
Revised Code to provide moneys to fulfill such guarantees and 15382  
covenants, and covenants restricting the aggregate amount of 15383  
guarantees that may be contracted under this section and 15384  
obligations that may be issued under section 151.07 of the Revised 15385  
Code, and terms pertinent to either, to better secure the parties 15386  
guaranteed. 15387

(C) The director of the office may fix service charges for 15388  
making a guarantee. Such charges shall be payable at such times 15389  
and place and in such amounts and manner as may be prescribed by 15390  
the director. Moneys received from such charges shall be credited 15391  
to the coal research and development bond service fund. 15392

(D) Any guaranteed parties under this section, by any 15393  
suitable form of legal proceedings and except to the extent that 15394  
their rights are restricted by the guarantee documents, may 15395  
protect and enforce any rights under the laws of this state or 15396  
granted by such guarantee or guarantee documents. Such rights 15397  
include the right to compel the performance of all duties of the 15398

office required by this section or the guarantee or guarantee 15399  
documents; and in the event of default with respect to the payment 15400  
of any guarantees, to apply to a court having jurisdiction of the 15401  
cause to appoint a receiver to receive and administer the moneys 15402  
pledged to such guarantee with full power to pay, and to provide 15403  
for payment of, such guarantee, and with such powers, subject to 15404  
the direction of the court, as are accorded receivers in general 15405  
equity cases, excluding any power to pledge or apply additional 15406  
revenues or receipts or other income or moneys of this state. Each 15407  
duty of the office and its director and employees required or 15408  
undertaken under this section or a guarantee made under this 15409  
section is hereby established as a duty of the office and of its 15410  
director and each such employee having authority to perform such 15411  
duty, specifically enjoined by the law resulting from an office, 15412  
trust, or station within the meaning of section 2731.01 of the 15413  
Revised Code. The persons who are at the time the director of the 15414  
office, or its employees, are not liable in their personal 15415  
capacities on any guarantees or contracts to make guarantees by 15416  
the director. 15417

**Sec. 1555.06.** Upon application by the director of the Ohio 15418  
coal development office with the approval of the director of 15419  
development, the controlling board, from appropriations available 15420  
to the board, may provide funds for surveys or studies by the 15421  
office of any proposed coal research and development project 15422  
subject to repayment by the office from funds available to it, 15423  
within the time fixed by the board. Funds to be repaid shall be 15424  
charged by the office to the appropriate coal research and 15425  
development project and the amount thereof shall be a cost of the 15426  
project. This section does not abrogate the authority of the 15427  
controlling board to otherwise provide funds for use by the office 15428  
in the exercise of the powers granted to it by this chapter. 15429

**Sec. 1707.08.** (A) The transactions enumerated in section 15430  
1707.06 of the Revised Code may be consummated on compliance with 15431  
this section and section 1707.11 of the Revised Code. 15432

(B) A description, verified either by the oath of the 15433  
individual filing it or of any individual having knowledge of the 15434  
facts, shall be filed with the division of securities by the 15435  
issuer, or by a majority of the incorporators of the issuer prior 15436  
to election of officers if it is an incorporated issuer, or by a 15437  
licensed dealer, which description shall be on forms prescribed by 15438  
the division and shall set forth: 15439

(1) The name of the issuer; 15440

(2) A brief description of the securities; 15441

(3) The amount of the securities to be offered after the 15442  
filing of the description for sale in this state and, if all the 15443  
securities are not to be offered by the person filing the 15444  
description, then the respective amounts to be offered by others, 15445  
so far as those amounts are known, and the names and addresses of 15446  
the other offerors; 15447

(4) A brief statement of the facts which show that the 15448  
securities are the subject matter of a transaction enumerated in 15449  
section 1707.06 of the Revised Code; 15450

(5) The price at which the securities are to be offered for 15451  
sale. 15452

(C) The individual who executes the application for 15453  
registration by description on behalf of the applicant shall state 15454  
the individual's relationship to the applicant and certify all of 15455  
the following: 15456

(1) The individual has executed the application on behalf of 15457  
the applicant. 15458

(2) The individual is fully authorized to execute and file 15459

the application on behalf of the applicant. 15460

(3) The individual is familiar with the applicant's 15461  
application. 15462

(4) To the best of the individual's knowledge, information, 15463  
and belief, the statements made in the application are true, and 15464  
the documents submitted with the application are true copies of 15465  
the original documents. 15466

(D) A registration by description is effective seven business 15467  
days after the division receives the description on applicable 15468  
forms, together with a any filing fee ~~of fifty dollars~~ required 15469  
under this division, if no proceeding is pending under section 15470  
1707.13 or 1707.131 of the Revised Code. However, the division may 15471  
permit an earlier effective date by rule or by issuing a 15472  
certificate of acknowledgment for the registration by description. 15473

For an offering that exceeds fifty thousand dollars, a filing 15474  
fee of fifty dollars shall be submitted with the registration by 15475  
description. 15476

(E) In order to correct errors or omissions, a registration 15477  
by description may be amended by the person that originally filed 15478  
it, by the filing, in the same manner as in the case of an 15479  
original registration by description, of an amended registration 15480  
by description or of an amendment of the original registration by 15481  
description. 15482

(F) When transactions in any securities enumerated in section 15483  
1707.06 of the Revised Code have been registered and the fees 15484  
prescribed by this section have been paid, the transactions may be 15485  
consummated so long as the registration remains in full force. 15486

**Sec. 1707.391.** When any securities have been sold in reliance 15487  
upon division (Q), (W), (X), or (Y) of section 1707.03 of the 15488  
Revised Code, section 1707.08 of the Revised Code, or any other 15489

section of this chapter that the division of securities may 15490  
specify by rule, but such reliance was improper because the 15491  
required filings were not timely or properly made due to excusable 15492  
neglect, upon the effective date of an application made to the 15493  
division and payment of ~~the required~~ any applicable fee, if 15494  
required and not already paid, ~~plus~~ and upon payment of a penalty 15495  
fee equal to the greater of the required fee or one hundred 15496  
dollars, the sale of the securities shall be deemed exempt, 15497  
qualified, or registered, as though timely and properly filed. The 15498  
application shall become effective upon the expiration of fourteen 15499  
days after the date of the filing in question if prior thereto the 15500  
division did not give notice to the applicant that the application 15501  
was denied based on a finding of lack of excusable neglect. The 15502  
division shall promptly adopt and promulgate rules establishing 15503  
provisions defining excusable neglect and otherwise establishing 15504  
reasonable standards for determining excusable neglect. 15505

The effectiveness of an application under this section does 15506  
not relieve anyone who has, other than for excusable neglect, 15507  
violated sections 1707.01 to 1707.45 of the Revised Code, or any 15508  
previous law in force at the time of sale, from prosecution 15509  
thereunder. 15510

**Sec. 1724.03.** (A) After the articles of incorporation have 15511  
been filed, and at the first meeting of the board of directors of 15512  
a county land reutilization corporation, the board shall adopt 15513  
regulations for the government of the corporation, the conduct of 15514  
its affairs, and the management of its property, consistent with 15515  
law and the articles. The content of the regulations shall be 15516  
governed by section 1702.11 of the Revised Code to the extent not 15517  
inconsistent with this chapter. 15518

(B) The board of directors of a county land reutilization 15519  
corporation shall be composed of five, seven, or nine members, 15520

including the county treasurer, at least two of the members of the 15521  
board of county commissioners, one representative of the largest 15522  
municipal corporation, based on the population according to the 15523  
most recent federal decennial census, that is located in the 15524  
county, one representative of a township with a population of at 15525  
least ten thousand in the unincorporated area of the township 15526  
according to the most recent federal decennial census, if at least 15527  
two such a ~~township exists~~ townships exist in the county, and any 15528  
remaining members selected by the treasurer and the county 15529  
commissioners who are members of the corporation's board. At least 15530  
one board member shall have private sector or nonprofit experience 15531  
in rehabilitation or real estate acquisitions. A county treasurer 15532  
and the county commissioners each may appoint a representative, as 15533  
a director of the corporation, to act for the officer at any of 15534  
the meetings of the corporation. Except as may otherwise be 15535  
authorized by the regulations of the corporation, all members of 15536  
the board of directors shall serve without compensation, but shall 15537  
be reimbursed for actual and necessary expenses. 15538

**Sec. 1733.47.** Whenever the approval of the superintendent of 15539  
credit unions is required under this chapter, or under an order or 15540  
supervisory action issued or taken under this chapter, for a 15541  
person to serve as an organizer, incorporator, director, or 15542  
executive officer of a credit union, or to otherwise participate 15543  
in the management of a credit union, the superintendent shall 15544  
request the superintendent of the bureau of criminal 15545  
identification and investigation, or a vendor approved by the 15546  
bureau, to conduct a criminal records check based on the person's 15547  
fingerprints in accordance with ~~division (A)(14)~~ of section 15548  
109.572 of the Revised Code. The superintendent of credit unions 15549  
shall request that criminal record information from the federal 15550  
bureau of investigation be obtained as part of the criminal 15551  
records check. Any fee required under division (C)(3) of section 15552

109.572 of the Revised Code shall be paid by the person who is the 15553  
subject of the request. 15554

**Sec. 1751.01.** As used in this chapter: 15555

(A)(1) "Basic health care services" means the following 15556  
services when medically necessary: 15557

(a) Physician's services, except when such services are 15558  
supplemental under division (B) of this section; 15559

(b) Inpatient hospital services; 15560

(c) Outpatient medical services; 15561

(d) Emergency health services; 15562

(e) Urgent care services; 15563

(f) Diagnostic laboratory services and diagnostic and 15564  
therapeutic radiologic services; 15565

(g) Diagnostic and treatment services, other than 15566  
prescription drug services, for biologically based mental 15567  
illnesses; 15568

(h) Preventive health care services, including, but not 15569  
limited to, voluntary family planning services, infertility 15570  
services, periodic physical examinations, prenatal obstetrical 15571  
care, and well-child care; 15572

(i) Routine patient care for patients enrolled in an eligible 15573  
cancer clinical trial pursuant to section 3923.80 of the Revised 15574  
Code. 15575

"Basic health care services" does not include experimental 15576  
procedures. 15577

Except as provided by divisions (A)(2) and (3) of this 15578  
section in connection with the offering of coverage for diagnostic 15579  
and treatment services for biologically based mental illnesses, a 15580

health insuring corporation shall not offer coverage for a health 15581  
care service, defined as a basic health care service by this 15582  
division, unless it offers coverage for all listed basic health 15583  
care services. However, this requirement does not apply to the 15584  
coverage of beneficiaries enrolled in medicare pursuant to a 15585  
medicare contract, or to the coverage of beneficiaries enrolled in 15586  
the federal employee health benefits program pursuant to 5 15587  
U.S.C.A. 8905, or to the coverage of medicaid recipients, or to 15588  
the coverage of beneficiaries under any federal health care 15589  
program regulated by a federal regulatory body, or to the coverage 15590  
of beneficiaries under any contract covering officers or employees 15591  
of the state that has been entered into by the department of 15592  
administrative services. 15593

(2) A health insuring corporation may offer coverage for 15594  
diagnostic and treatment services for biologically based mental 15595  
illnesses without offering coverage for all other basic health 15596  
care services. A health insuring corporation may offer coverage 15597  
for diagnostic and treatment services for biologically based 15598  
mental illnesses alone or in combination with one or more 15599  
supplemental health care services. However, a health insuring 15600  
corporation that offers coverage for any other basic health care 15601  
service shall offer coverage for diagnostic and treatment services 15602  
for biologically based mental illnesses in combination with the 15603  
offer of coverage for all other listed basic health care services. 15604

(3) A health insuring corporation that offers coverage for 15605  
basic health care services is not required to offer coverage for 15606  
diagnostic and treatment services for biologically based mental 15607  
illnesses in combination with the offer of coverage for all other 15608  
listed basic health care services if all of the following apply: 15609

(a) The health insuring corporation submits documentation 15610  
certified by an independent member of the American academy of 15611  
actuaries to the superintendent of insurance showing that incurred 15612

claims for diagnostic and treatment services for biologically 15613  
based mental illnesses for a period of at least six months 15614  
independently caused the health insuring corporation's costs for 15615  
claims and administrative expenses for the coverage of basic 15616  
health care services to increase by more than one per cent per 15617  
year. 15618

(b) The health insuring corporation submits a signed letter 15619  
from an independent member of the American academy of actuaries to 15620  
the superintendent of insurance opining that the increase in costs 15621  
described in division (A)(3)(a) of this section could reasonably 15622  
justify an increase of more than one per cent in the annual 15623  
premiums or rates charged by the health insuring corporation for 15624  
the coverage of basic health care services. 15625

(c) The superintendent of insurance makes the following 15626  
determinations from the documentation and opinion submitted 15627  
pursuant to divisions (A)(3)(a) and (b) of this section: 15628

(i) Incurred claims for diagnostic and treatment services for 15629  
biologically based mental illnesses for a period of at least six 15630  
months independently caused the health insuring corporation's 15631  
costs for claims and administrative expenses for the coverage of 15632  
basic health care services to increase by more than one per cent 15633  
per year. 15634

(ii) The increase in costs reasonably justifies an increase 15635  
of more than one per cent in the annual premiums or rates charged 15636  
by the health insuring corporation for the coverage of basic 15637  
health care services. 15638

Any determination made by the superintendent under this 15639  
division is subject to Chapter 119. of the Revised Code. 15640

(B)(1) "Supplemental health care services" means any health 15641  
care services other than basic health care services that a health 15642  
insuring corporation may offer, alone or in combination with 15643

|   |       |
|---|-------|
| either basic health care services or other supplemental health care services, and includes:   | 15644 |
|   | 15645 |
| (a) Services of facilities for intermediate or long-term care, or both;   | 15646 |
|   | 15647 |
| (b) Dental care services;   | 15648 |
| (c) Vision care and optometric services including lenses and frames;  | 15649 |
|   | 15650 |
| (d) Podiatric care or foot care services;   | 15651 |
| (e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;  | 15652 |
|   | 15653 |
| (f) Short-term outpatient evaluative and crisis-intervention mental health services;  | 15654 |
|   | 15655 |
| (g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;   | 15656 |
|   | 15657 |
| (h) Home health services;   | 15658 |
| (i) Prescription drug services;   | 15659 |
| (j) Nursing services;   | 15660 |
| (k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;   | 15661 |
|   | 15662 |
| (l) Physical therapy services;  | 15663 |
| (m) Chiropractic services;  | 15664 |
| (n) Any other category of services approved by the superintendent of insurance.   | 15665 |
|   | 15666 |
| (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. | 15667 |
|   | 15668 |
|   | 15669 |
|   | 15670 |
|   | 15671 |

(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.

(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.

(E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.

(F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.

(G) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.

(H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another state.

(I) "Emergency health services" means those health care services that must be available on a seven-days-per-week, twenty-four-hours-per-day basis in order to prevent jeopardy to an enrollee's health status that would occur if such services were not received as soon as possible, and includes, where appropriate, provisions for transportation and indemnity payments or service agreements for out-of-area coverage.

(J) "Enrollee" means any natural person who is entitled to

receive health care benefits provided by a health insuring corporation. 15703  
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(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan. 15705  
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(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, mental retardation, intermediate care, or skilled nursing services. 15709  
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(M) "Health care services" means basic, supplemental, and specialty health care services. 15714  
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(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis. 15716  
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(O) "Health insuring corporation" means a corporation, as defined in division (H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan. 15720  
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"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. of the Revised Code, an insurer licensed under Title XXXIX of the Revised Code if that insurer offers only open panel plans under which all providers and health care facilities participating receive their 15729  
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compensation directly from the insurer, a corporation formed by or 15734  
on behalf of a political subdivision or a department, office, or 15735  
institution of the state, or a public entity formed by or on 15736  
behalf of a board of county commissioners, a county board of 15737  
developmental disabilities, an alcohol and drug addiction services 15738  
board, a board of alcohol, drug addiction, and mental health 15739  
services, or a community mental health board, as those terms are 15740  
used in Chapters 340. and 5126. of the Revised Code. Except as 15741  
provided by division (D) of section 1751.02 of the Revised Code, 15742  
or as otherwise provided by law, no board, commission, agency, or 15743  
other entity under the control of a political subdivision may 15744  
accept insurance risk in providing for health care services. 15745  
However, nothing in this division shall be construed as 15746  
prohibiting such entities from purchasing the services of a health 15747  
insuring corporation or a third-party administrator licensed under 15748  
Chapter 3959. of the Revised Code. 15749

(P) "Intermediary organization" means a health delivery 15750  
network or other entity that contracts with licensed health 15751  
insuring corporations or self-insured employers, or both, to 15752  
provide health care services, and that enters into contractual 15753  
arrangements with other entities for the provision of health care 15754  
services for the purpose of fulfilling the terms of its contracts 15755  
with the health insuring corporations and self-insured employers. 15756

(Q) "Intermediate care" means residential care above the 15757  
level of room and board for patients who require personal 15758  
assistance and health-related services, but who do not require 15759  
skilled nursing care. 15760

(R) "Medicaid" has the same meaning as in section 5111.01 of 15761  
the Revised Code. 15762

(S) "Medical record" means the personal information that 15763  
relates to an individual's physical or mental condition, medical 15764  
history, or medical treatment. 15765

(T) "Medicare" means the program established under Title 15766  
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 15767  
1395, as amended. 15768

(U)(1) "Open panel plan" means a health care plan that 15769  
provides incentives for enrollees to use participating providers 15770  
and that also allows enrollees to use providers that are not 15771  
participating providers. 15772

(2) No health insuring corporation may offer an open panel 15773  
plan, unless the health insuring corporation is also licensed as 15774  
an insurer under Title XXXIX of the Revised Code, the health 15775  
insuring corporation, on June 4, 1997, holds a certificate of 15776  
authority or license to operate under Chapter 1736. or 1740. of 15777  
the Revised Code, or an insurer licensed under Title XXXIX of the 15778  
Revised Code is responsible for the out-of-network risk as 15779  
evidenced by both an evidence of coverage filing under section 15780  
1751.11 of the Revised Code and a policy and certificate filing 15781  
under section 3923.02 of the Revised Code. 15782

(V) "Osteopathic hospital" means a hospital registered under 15783  
section 3701.07 of the Revised Code that advocates osteopathic 15784  
principles and the practice and perpetuation of osteopathic 15785  
medicine by doing any of the following: 15786

(1) Maintaining a department or service of osteopathic 15787  
medicine or a committee on the utilization of osteopathic 15788  
principles and methods, under the supervision of an osteopathic 15789  
physician; 15790

(2) Maintaining an active medical staff, the majority of 15791  
which is comprised of osteopathic physicians; 15792

(3) Maintaining a medical staff executive committee that has 15793  
osteopathic physicians as a majority of its members. 15794

(W) "Panel" means a group of providers or health care 15795  
facilities that have joined together to deliver health care 15796

services through a contractual arrangement with a health insuring corporation, employer group, or other payor. 15797  
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~~(W)~~(X) "Person" has the same meaning as in section 1.59 of 15799  
the Revised Code, and, unless the context otherwise requires, 15800  
includes any insurance company holding a certificate of authority 15801  
under Title XXXIX of the Revised Code, any subsidiary and 15802  
affiliate of an insurance company, and any government agency. 15803

~~(X)~~(Y) "Premium rate" means any set fee regularly paid by a 15804  
subscriber to a health insuring corporation. A "premium rate" does 15805  
not include a one-time membership fee, an annual administrative 15806  
fee, or a nominal access fee, paid to a managed health care system 15807  
under which the recipient of health care services remains solely 15808  
responsible for any charges accessed for those services by the 15809  
provider or health care facility. 15810

~~(Y)~~(Z) "Primary care provider" means a provider that is 15811  
designated by a health insuring corporation to supervise, 15812  
coordinate, or provide initial care or continuing care to an 15813  
enrollee, and that may be required by the health insuring 15814  
corporation to initiate a referral for specialty care and to 15815  
maintain supervision of the health care services rendered to the 15816  
enrollee. 15817

~~(Z)~~(AA) "Provider" means any natural person or partnership of 15818  
natural persons who are licensed, certified, accredited, or 15819  
otherwise authorized in this state to furnish health care 15820  
services, or any professional association organized under Chapter 15821  
1785. of the Revised Code, provided that nothing in this chapter 15822  
or other provisions of law shall be construed to preclude a health 15823  
insuring corporation, health care practitioner, or organized 15824  
health care group associated with a health insuring corporation 15825  
from employing certified nurse practitioners, certified nurse 15826  
anesthetists, clinical nurse specialists, certified nurse 15827  
midwives, dietitians, physician assistants, dental assistants, 15828

dental hygienists, optometric technicians, or other allied health 15829  
personnel who are licensed, certified, accredited, or otherwise 15830  
authorized in this state to furnish health care services. 15831

~~(AA)~~(BB) "Provider sponsored organization" means a 15832  
corporation, as defined in division (H) of this section, that is 15833  
at least eighty per cent owned or controlled by one or more 15834  
hospitals, as defined in section 3727.01 of the Revised Code, or 15835  
one or more physicians licensed to practice medicine or surgery or 15836  
osteopathic medicine and surgery under Chapter 4731. of the 15837  
Revised Code, or any combination of such physicians and hospitals. 15838  
Such control is presumed to exist if at least eighty per cent of 15839  
the voting rights or governance rights of a provider sponsored 15840  
organization are directly or indirectly owned, controlled, or 15841  
otherwise held by any combination of the physicians and hospitals 15842  
described in this division. 15843

~~(BB)~~(CC) "Solicitation document" means the written materials 15844  
provided to prospective subscribers or enrollees, or both, and 15845  
used for advertising and marketing to induce enrollment in the 15846  
health care plans of a health insuring corporation. 15847

~~(CC)~~(DD) "Subscriber" means a person who is responsible for 15848  
making payments to a health insuring corporation for participation 15849  
in a health care plan, or an enrollee whose employment or other 15850  
status is the basis of eligibility for enrollment in a health 15851  
insuring corporation. 15852

~~(DD)~~(EE) "Urgent care services" means those health care 15853  
services that are appropriately provided for an unforeseen 15854  
condition of a kind that usually requires medical attention 15855  
without delay but that does not pose a threat to the life, limb, 15856  
or permanent health of the injured or ill person, and may include 15857  
such health care services provided out of the health insuring 15858  
corporation's approved service area pursuant to indemnity payments 15859  
or service agreements. 15860

Sec. 1751.02. (A) Notwithstanding any law in this state to 15861  
the contrary, any corporation, as defined in section 1751.01 of 15862  
the Revised Code, may apply to the superintendent of insurance for 15863  
a certificate of authority to establish and operate a health 15864  
insuring corporation. If the corporation applying for a 15865  
certificate of authority is a foreign corporation domiciled in a 15866  
state without laws similar to those of this chapter, the 15867  
corporation must form a domestic corporation to apply for, obtain, 15868  
and maintain a certificate of authority under this chapter. 15869

(B) No person shall establish, operate, or perform the 15870  
services of a health insuring corporation in this state without 15871  
obtaining a certificate of authority under this chapter. 15872

(C) Except as provided by division (D) of this section, no 15873  
political subdivision or department, office, or institution of 15874  
this state, or corporation formed by or on behalf of any political 15875  
subdivision or department, office, or institution of this state, 15876  
shall establish, operate, or perform the services of a health 15877  
insuring corporation. Nothing in this section shall be construed 15878  
to preclude a board of county commissioners, a county board of 15879  
developmental disabilities, an alcohol and drug addiction services 15880  
board, a board of alcohol, drug addiction, and mental health 15881  
services, or a community mental health board, or a public entity 15882  
formed by or on behalf of any of these boards, from using managed 15883  
care techniques in carrying out the board's or public entity's 15884  
duties pursuant to the requirements of Chapters 307., 329., 340., 15885  
and 5126. of the Revised Code. However, no such board or public 15886  
entity may operate so as to compete in the private sector with 15887  
health insuring corporations holding certificates of authority 15888  
under this chapter. 15889

(D) A corporation formed by or on behalf of a publicly owned, 15890  
operated, or funded hospital or health care facility may apply to 15891

the superintendent for a certificate of authority under division 15892  
(A) of this section to establish and operate a health insuring 15893  
corporation. 15894

(E) A health insuring corporation shall operate in this state 15895  
in compliance with this chapter and Chapter 1753. of the Revised 15896  
Code, ~~and with sections 3702.51 to 3702.62 of the Revised Code,~~ 15897  
and shall operate in conformity with its filings with the 15898  
superintendent under this chapter, including filings made pursuant 15899  
to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised 15900  
Code. 15901

(F) An insurer licensed under Title XXXIX of the Revised Code 15902  
need not obtain a certificate of authority as a health insuring 15903  
corporation to offer an open panel plan as long as the providers 15904  
and health care facilities participating in the open panel plan 15905  
receive their compensation directly from the insurer. If the 15906  
providers and health care facilities participating in the open 15907  
panel plan receive their compensation from any person other than 15908  
the insurer, or if the insurer offers a closed panel plan, the 15909  
insurer must obtain a certificate of authority as a health 15910  
insuring corporation. 15911

(G) An intermediary organization need not obtain a 15912  
certificate of authority as a health insuring corporation, 15913  
regardless of the method of reimbursement to the intermediary 15914  
organization, as long as a health insuring corporation or a 15915  
self-insured employer maintains the ultimate responsibility to 15916  
assure delivery of all health care services required by the 15917  
contract between the health insuring corporation and the 15918  
subscriber and the laws of this state or between the self-insured 15919  
employer and its employees. 15920

Nothing in this section shall be construed to require any 15921  
health care facility, provider, health delivery network, or 15922  
intermediary organization that contracts with a health insuring 15923

corporation or self-insured employer, regardless of the method of 15924  
reimbursement to the health care facility, provider, health 15925  
delivery network, or intermediary organization, to obtain a 15926  
certificate of authority as a health insuring corporation under 15927  
this chapter, unless otherwise provided, in the case of contracts 15928  
with a self-insured employer, by operation of the "Employee 15929  
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 15930  
1001, as amended. 15931

(H) Any health delivery network doing business in this state, 15932  
including any health delivery network that is functioning as an 15933  
intermediary organization doing business in this state, that is 15934  
not required to obtain a certificate of authority under this 15935  
chapter shall certify to the superintendent annually, not later 15936  
than the first day of July, and shall provide a statement signed 15937  
by the highest ranking official which includes the following 15938  
information: 15939

(1) The health delivery network's full name and the address 15940  
of its principal place of business; 15941

(2) A statement that the health delivery network is not 15942  
required to obtain a certificate of authority under this chapter 15943  
to conduct its business. 15944

(I) The superintendent shall not issue a certificate of 15945  
authority to a health insuring corporation that is a provider 15946  
sponsored organization unless all health care plans to be offered 15947  
by the health insuring corporation provide basic health care 15948  
services. Substantially all of the physicians and hospitals with 15949  
ownership or control of the provider sponsored organization, as 15950  
defined in section 1751.01 of the Revised Code, shall also be 15951  
participating providers for the provision of basic health care 15952  
services for health care plans offered by the provider sponsored 15953  
organization. If a health insuring corporation that is a provider 15954  
sponsored organization offers health care plans that do not 15955

provide basic health care services, the health insuring 15956  
corporation shall be deemed, for purposes of section 1751.35 of 15957  
the Revised Code, to have failed to substantially comply with this 15958  
chapter. 15959

Except as specifically provided in this division and in 15960  
division (A) of section 1751.28 of the Revised Code, the 15961  
provisions of this chapter shall apply to all health insuring 15962  
corporations that are provider sponsored organizations in the same 15963  
manner that these provisions apply to all health insuring 15964  
corporations that are not provider sponsored organizations. 15965

(J) Nothing in this section shall be construed to apply to 15966  
any multiple employer welfare arrangement operating pursuant to 15967  
Chapter 1739. of the Revised Code. 15968

(K) Any person who violates division (B) of this section, and 15969  
any health delivery network that fails to comply with division (H) 15970  
of this section, is subject to the penalties set forth in section 15971  
1751.45 of the Revised Code. 15972

**Sec. 1751.13.** (A)(1)(a) A health insuring corporation shall, 15973  
either directly or indirectly, enter into contracts for the 15974  
provision of health care services with a sufficient number and 15975  
types of providers and healthcare facilities to ensure that all 15976  
covered health care services will be accessible to enrollees from 15977  
a contracted provider or health care facility. 15978

(b) A health insuring corporation shall not refuse to 15979  
contract with a physician for the provision of health care 15980  
services or refuse to recognize a physician as a specialist on the 15981  
basis that the physician attended an educational program or a 15982  
residency program approved or certified by the American 15983  
osteopathic association. A health insuring corporation shall not 15984  
refuse to contract with a health care facility for the provision 15985  
of health care services on the basis that the health care facility 15986

is certified or accredited by the American osteopathic association 15987  
or that the health care facility is an osteopathic hospital ~~as~~ 15988  
~~defined in section 3702.51 of the Revised Code.~~ 15989

(c) Nothing in division (A)(1)(b) of this section shall be 15990  
construed to require a health insuring corporation to make a 15991  
benefit payment under a closed panel plan to a physician or health 15992  
care facility with which the health insuring corporation does not 15993  
have a contract, provided that none of the bases set forth in that 15994  
division are used as a reason for failing to make a benefit 15995  
payment. 15996

(2) When a health insuring corporation is unable to provide a 15997  
covered health care service from a contracted provider or health 15998  
care facility, the health insuring corporation must provide that 15999  
health care service from a noncontracted provider or health care 16000  
facility consistent with the terms of the enrollee's policy, 16001  
contract, certificate, or agreement. The health insuring 16002  
corporation shall either ensure that the health care service be 16003  
provided at no greater cost to the enrollee than if the enrollee 16004  
had obtained the health care service from a contracted provider or 16005  
health care facility, or make other arrangements acceptable to the 16006  
superintendent of insurance. 16007

(3) Nothing in this section shall prohibit a health insuring 16008  
corporation from entering into contracts with out-of-state 16009  
providers or health care facilities that are licensed, certified, 16010  
accredited, or otherwise authorized in that state. 16011

(B)(1) A health insuring corporation shall, either directly 16012  
or indirectly, enter into contracts with all providers and health 16013  
care facilities through which health care services are provided to 16014  
its enrollees. 16015

(2) A health insuring corporation, upon written request, 16016  
shall assist its contracted providers in finding stop-loss or 16017

reinsurance carriers. 16018

(C) A health insuring corporation shall file an annual 16019  
certificate with the superintendent certifying that all provider 16020  
contracts and contracts with health care facilities through which 16021  
health care services are being provided contain the following: 16022

(1) A description of the method by which the provider or 16023  
health care facility will be notified of the specific health care 16024  
services for which the provider or health care facility will be 16025  
responsible, including any limitations or conditions on such 16026  
services; 16027

(2) The specific hold harmless provision specifying 16028  
protection of enrollees set forth as follows: 16029

"[Provider/Health Care Facility] agrees that in no event, 16030  
including but not limited to nonpayment by the health insuring 16031  
corporation, insolvency of the health insuring corporation, or 16032  
breach of this agreement, shall [Provider/Health Care Facility] 16033  
bill, charge, collect a deposit from, seek remuneration or 16034  
reimbursement from, or have any recourse against, a subscriber, 16035  
enrollee, person to whom health care services have been provided, 16036  
or person acting on behalf of the covered enrollee, for health 16037  
care services provided pursuant to this agreement. This does not 16038  
prohibit [Provider/Health Care Facility] from collecting 16039  
co-insurance, deductibles, or copayments as specifically provided 16040  
in the evidence of coverage, or fees for uncovered health care 16041  
services delivered on a fee-for-service basis to persons 16042  
referenced above, nor from any recourse against the health 16043  
insuring corporation or its successor." 16044

(3) Provisions requiring the provider or health care facility 16045  
to continue to provide covered health care services to enrollees 16046  
in the event of the health insuring corporation's insolvency or 16047  
discontinuance of operations. The provisions shall require the 16048

provider or health care facility to continue to provide covered 16049  
health care services to enrollees as needed to complete any 16050  
medically necessary procedures commenced but unfinished at the 16051  
time of the health insuring corporation's insolvency or 16052  
discontinuance of operations. The completion of a medically 16053  
necessary procedure shall include the rendering of all covered 16054  
health care services that constitute medically necessary follow-up 16055  
care for that procedure. If an enrollee is receiving necessary 16056  
inpatient care at a hospital, the provisions may limit the 16057  
required provision of covered health care services relating to 16058  
that inpatient care in accordance with division (D)(3) of section 16059  
1751.11 of the Revised Code, and may also limit such required 16060  
provision of covered health care services to the period ending 16061  
thirty days after the health insuring corporation's insolvency or 16062  
discontinuance of operations. 16063

The provisions required by division (C)(3) of this section 16064  
shall not require any provider or health care facility to continue 16065  
to provide any covered health care service after the occurrence of 16066  
any of the following: 16067

(a) The end of the thirty-day period following the entry of a 16068  
liquidation order under Chapter 3903. of the Revised Code; 16069

(b) The end of the enrollee's period of coverage for a 16070  
contractual prepayment or premium; 16071

(c) The enrollee obtains equivalent coverage with another 16072  
health insuring corporation or insurer, or the enrollee's employer 16073  
obtains such coverage for the enrollee; 16074

(d) The enrollee or the enrollee's employer terminates 16075  
coverage under the contract; 16076

(e) A liquidator effects a transfer of the health insuring 16077  
corporation's obligations under the contract under division (A)(8) 16078  
of section 3903.21 of the Revised Code. 16079

(4) A provision clearly stating the rights and 16080  
responsibilities of the health insuring corporation, and of the 16081  
contracted providers and health care facilities, with respect to 16082  
administrative policies and programs, including, but not limited 16083  
to, payments systems, utilization review, quality assurance, 16084  
assessment, and improvement programs, credentialing, 16085  
confidentiality requirements, and any applicable federal or state 16086  
programs; 16087

(5) A provision regarding the availability and 16088  
confidentiality of those health records maintained by providers 16089  
and health care facilities to monitor and evaluate the quality of 16090  
care, to conduct evaluations and audits, and to determine on a 16091  
concurrent or retrospective basis the necessity of and 16092  
appropriateness of health care services provided to enrollees. The 16093  
provision shall include terms requiring the provider or health 16094  
care facility to make these health records available to 16095  
appropriate state and federal authorities involved in assessing 16096  
the quality of care or in investigating the grievances or 16097  
complaints of enrollees, and requiring the provider or health care 16098  
facility to comply with applicable state and federal laws related 16099  
to the confidentiality of medical or health records. 16100

(6) A provision that states that contractual rights and 16101  
responsibilities may not be assigned or delegated by the provider 16102  
or health care facility without the prior written consent of the 16103  
health insuring corporation; 16104

(7) A provision requiring the provider or health care 16105  
facility to maintain adequate professional liability and 16106  
malpractice insurance. The provision shall also require the 16107  
provider or health care facility to notify the health insuring 16108  
corporation not more than ten days after the provider's or health 16109  
care facility's receipt of notice of any reduction or cancellation 16110  
of such coverage. 16111

(8) A provision requiring the provider or health care facility to observe, protect, and promote the rights of enrollees as patients;

(9) A provision requiring the provider or health care facility to provide health care services without discrimination on the basis of a patient's participation in the health care plan, age, sex, ethnicity, religion, sexual preference, health status, or disability, and without regard to the source of payments made for health care services rendered to a patient. This requirement shall not apply to circumstances when the provider or health care facility appropriately does not render services due to limitations arising from the provider's or health care facility's lack of training, experience, or skill, or due to licensing restrictions.

(10) A provision containing the specifics of any obligation on the primary care provider to provide, or to arrange for the provision of, covered health care services twenty-four hours per day, seven days per week;

(11) A provision setting forth procedures for the resolution of disputes arising out of the contract;

(12) A provision stating that the hold harmless provision required by division (C)(2) of this section shall survive the termination of the contract with respect to services covered and provided under the contract during the time the contract was in effect, regardless of the reason for the termination, including the insolvency of the health insuring corporation;

(13) A provision requiring those terms that are used in the contract and that are defined by this chapter, be used in the contract in a manner consistent with those definitions.

This division does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries

enrolled in the federal employee health benefits program pursuant 16143  
to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or 16144  
to the coverage of beneficiaries under any federal health care 16145  
program regulated by a federal regulatory body, or to the coverage 16146  
of beneficiaries under any contract covering officers or employees 16147  
of the state that has been entered into by the department of 16148  
administrative services. 16149

(D)(1) No health insuring corporation contract with a 16150  
provider or health care facility shall contain any of the 16151  
following: 16152

(a) A provision that directly or indirectly offers an 16153  
inducement to the provider or health care facility to reduce or 16154  
limit medically necessary health care services to a covered 16155  
enrollee; 16156

(b) A provision that penalizes a provider or health care 16157  
facility that assists an enrollee to seek a reconsideration of the 16158  
health insuring corporation's decision to deny or limit benefits 16159  
to the enrollee; 16160

(c) A provision that limits or otherwise restricts the 16161  
provider's or health care facility's ethical and legal 16162  
responsibility to fully advise enrollees about their medical 16163  
condition and about medically appropriate treatment options; 16164

(d) A provision that penalizes a provider or health care 16165  
facility for principally advocating for medically necessary health 16166  
care services; 16167

(e) A provision that penalizes a provider or health care 16168  
facility for providing information or testimony to a legislative 16169  
or regulatory body or agency. This shall not be construed to 16170  
prohibit a health insuring corporation from penalizing a provider 16171  
or health care facility that provides information or testimony 16172  
that is libelous or slanderous or that discloses trade secrets 16173

which the provider or health care facility has no privilege or 16174  
permission to disclose. 16175

(f) A provision that violates Chapter 3963. of the Revised 16176  
Code. 16177

(2) Nothing in this division shall be construed to prohibit a 16178  
health insuring corporation from doing either of the following: 16179

(a) Making a determination not to reimburse or pay for a 16180  
particular medical treatment or other health care service; 16181

(b) Enforcing reasonable peer review or utilization review 16182  
protocols, or determining whether a particular provider or health 16183  
care facility has complied with these protocols. 16184

(E) Any contract between a health insuring corporation and an 16185  
intermediary organization shall clearly specify that the health 16186  
insuring corporation must approve or disapprove the participation 16187  
of any provider or health care facility with which the 16188  
intermediary organization contracts. 16189

(F) If an intermediary organization that is not a health 16190  
delivery network contracting solely with self-insured employers 16191  
subcontracts with a provider or health care facility, the 16192  
subcontract with the provider or health care facility shall do all 16193  
of the following: 16194

(1) Contain the provisions required by divisions (C) and (G) 16195  
of this section, as made applicable to an intermediary 16196  
organization, without the inclusion of inducements or penalties 16197  
described in division (D) of this section; 16198

(2) Acknowledge that the health insuring corporation is a 16199  
third-party beneficiary to the agreement; 16200

(3) Acknowledge the health insuring corporation's role in 16201  
approving the participation of the provider or health care 16202  
facility, pursuant to division (E) of this section. 16203

(G) Any provider contract or contract with a health care facility shall clearly specify the health insuring corporation's statutory responsibility to monitor and oversee the offering of covered health care services to its enrollees.

(H)(1) A health insuring corporation shall maintain its provider contracts and its contracts with health care facilities at one or more of its places of business in this state, and shall provide copies of these contracts to facilitate regulatory review upon written notice by the superintendent of insurance.

(2) Any contract with an intermediary organization that accepts compensation shall include provisions requiring the intermediary organization to provide the superintendent with regulatory access to all books, records, financial information, and documents related to the provision of health care services to subscribers and enrollees under the contract. The contract shall require the intermediary organization to maintain such books, records, financial information, and documents at its principal place of business in this state and to preserve them for at least three years in a manner that facilitates regulatory review.

(I)(1) A health insuring corporation shall notify its affected enrollees of the termination of a contract for the provision of health care services between the health insuring corporation and a primary care physician or hospital, by mail, within thirty days after the termination of the contract.

(a) Notice shall be given to subscribers of the termination of a contract with a primary care physician if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from the primary care physician within the previous twelve months or if the subscriber or dependent has selected the physician as the subscriber's or dependent's primary care physician within the previous twelve months.

(b) Notice shall be given to subscribers of the termination of a contract with a hospital if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from that hospital within the previous twelve months.

(2) The health insuring corporation shall pay, in accordance with the terms of the contract, for all covered health care services rendered to an enrollee by a primary care physician or hospital between the date of the termination of the contract and five days after the notification of the contract termination is mailed to a subscriber at the subscriber's last known address.

(J) Divisions (A) and (B) of this section do not apply to any health insuring corporation that, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1740. of the Revised Code.

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

**Sec. 1761.26.** Whenever the approval of the superintendent of credit unions is required under this chapter, or under an order or supervisory action issued or taken under this chapter, for a person to serve as an organizer, incorporator, director, or executive officer of a credit union share guaranty corporation, or to otherwise participate in the management of such a corporation, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14) of~~ section 109.572 of the Revised Code. The superintendent of credit unions shall request that criminal record information from the federal bureau of investigation be obtained as part of the

criminal records check. Any fee required under division (C)(3) of 16267  
section 109.572 of the Revised Code shall be paid by the person 16268  
who is the subject of the request. 16269

**Sec. 1901.06.** A municipal judge during the judge's term of 16270  
office shall be a qualified elector and a resident of the 16271  
territory of the court to which the judge is elected or appointed. 16272  
A municipal judge shall have been admitted to the practice of law 16273  
in this state and shall have been, for a total of at least six 16274  
years preceding appointment or the commencement of the judge's 16275  
term, engaged in the practice of law in this state or served as a 16276  
judge of a court of record in any jurisdiction in the United 16277  
States, or both. ~~At least two of the years of practice or service~~ 16278  
~~that qualify a judge shall have been in this state.~~ 16279

Except as provided in section 1901.08 of the Revised Code, 16280  
the first election of any newly created office of a municipal 16281  
judge shall be held at the next regular municipal election 16282  
occurring not less than one hundred days after the creation of the 16283  
office. Except as otherwise provided in division (G) of section 16284  
1901.01 of the Revised Code, the institution of a new municipal 16285  
court shall take place on the first day of January next after the 16286  
first election for the court. 16287

**Sec. 1901.18.** (A) Except as otherwise provided in this 16288  
division or section 1901.181 of the Revised Code, subject to the 16289  
monetary jurisdiction of municipal courts as set forth in section 16290  
1901.17 of the Revised Code, a municipal court has original 16291  
jurisdiction within its territory in all of the following actions 16292  
or proceedings and to perform all of the following functions: 16293

(1) In any civil action, of whatever nature or remedy, of 16294  
which judges of county courts have jurisdiction; 16295

(2) In any action or proceeding at law for the recovery of 16296

|   |  |
|---|--|
| money or personal property of which the court of common pleas has jurisdiction;   | 16297<br>16298                                     |
| (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; | 16299<br>16300<br>16301<br>16302<br>16303<br>16304 |
| (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;   | 16305<br>16306<br>16307<br>16308<br>16309          |
| (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;   | 16310<br>16311<br>16312<br>16313<br>16314          |
| (6) In any action or proceeding in the nature of interpleader;  | 16315<br>16316                                     |
| (7) In any action of replevin;  | 16317  |
| (8) In any action of forcible entry and detainer;   | 16318  |
| (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;                              | 16319<br>16320<br>16321<br>16322<br>16323<br>16324 |
| (10) If the municipal court has a housing or environmental division, in any action over which the division is given   | 16325<br>16326                                     |

jurisdiction by section 1901.181 of the Revised Code, provided 16327  
that, except as specified in division (B) of that section, no 16328  
judge of the court other than the judge of the division shall hear 16329  
or determine any action over which the division has jurisdiction; 16330

(11) In any action brought pursuant to division (I) of 16331  
section ~~3733.11~~ 4781.40 of the Revised Code, if the residential 16332  
premises that are the subject of the action are located within the 16333  
territorial jurisdiction of the court; 16334

(12) In any civil action as described in division (B)(1) of 16335  
section 3767.41 of the Revised Code that relates to a public 16336  
nuisance, and, to the extent any provision of this chapter 16337  
conflicts or is inconsistent with a provision of that section, the 16338  
provision of that section shall control in the civil action; 16339

(13) In a proceeding brought pursuant to section 955.222 of 16340  
the Revised Code by the owner of a dog that has been designated as 16341  
a nuisance dog, dangerous dog, or vicious dog. 16342

(B) The Cleveland municipal court also shall have 16343  
jurisdiction within its territory in all of the following actions 16344  
or proceedings and to perform all of the following functions: 16345

(1) In all actions and proceedings for the sale of real 16346  
property under lien of a judgment of the municipal court or a lien 16347  
for machinery, material, or fuel furnished or labor performed, 16348  
irrespective of amount, and, in those actions and proceedings, the 16349  
court may proceed to foreclose and marshal all liens and all 16350  
vested or contingent rights, to appoint a receiver, and to render 16351  
personal judgment irrespective of amount in favor of any party. 16352

(2) In all actions for the foreclosure of a mortgage on real 16353  
property given to secure the payment of money or the enforcement 16354  
of a specific lien for money or other encumbrance or charge on 16355  
real property, when the amount claimed by the plaintiff does not 16356  
exceed fifteen thousand dollars and the real property is situated 16357

within the territory, and, in those actions, the court may proceed 16358  
to foreclose all liens and all vested and contingent rights and 16359  
may proceed to render judgments and make findings and orders 16360  
between the parties in the same manner and to the same extent as 16361  
in similar actions in the court of common pleas. 16362

(3) In all actions for the recovery of real property situated 16363  
within the territory to the same extent as courts of common pleas 16364  
have jurisdiction; 16365

(4) In all actions for injunction to prevent or terminate 16366  
violations of the ordinances and regulations of the city of 16367  
Cleveland enacted or promulgated under the police power of the 16368  
city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 16369  
Constitution, over which the court of common pleas has or may have 16370  
jurisdiction, and, in those actions, the court may proceed to 16371  
render judgments and make findings and orders in the same manner 16372  
and to the same extent as in similar actions in the court of 16373  
common pleas. 16374

**Sec. 1907.13.** A county court judge, at the time of filing a 16375  
nominating petition for the office or at the time of appointment 16376  
to the office and during the judge's term of office, shall be a 16377  
qualified elector and a resident of the county court district in 16378  
which the judge is elected or appointed. A county court judge does 16379  
not have to be a resident of an area of separate jurisdiction in 16380  
the county court district to which the judge may be assigned 16381  
pursuant to section 1907.15 of the Revised Code. Every county 16382  
court judge shall have been admitted to the practice of law in 16383  
this state and shall have been engaged, for a total of at least 16384  
six years preceding the judge's appointment or the commencement of 16385  
the judge's term, in the practice of law in ~~any jurisdiction in~~ 16386  
~~the United States~~ this state, except that the six-year practice 16387  
requirement does not apply to a county court judge who is holding 16388

office on ~~July 2, 2010~~ the effective date of the amendment of this 16389  
section by H.B. 487 of the 129th general assembly, and who 16390  
subsequently is a candidate for that office. ~~At least two of the~~ 16391  
~~years of practice that qualify a judge shall have been in this~~ 16392  
~~state.~~ 16393

Judges shall be elected by the electors of the county court 16394  
district at the general election in even-numbered years as set 16395  
forth in section 1907.11 of the Revised Code for a term of six 16396  
years commencing on the first day of January following the 16397  
election for the county court or on the dates specified in section 16398  
1907.11 of the Revised Code for particular county court judges. 16399  
Their successors shall be elected in even-numbered years every six 16400  
years. 16401

All candidates for county court judge shall be nominated by 16402  
petition. The nominating petition shall be in the general form and 16403  
signed and verified as prescribed by section 3513.261 of the 16404  
Revised Code and shall be signed by the lesser of fifty qualified 16405  
electors of the county court district or a number of qualified 16406  
electors of the county court district not less than one per cent 16407  
of the number of electors who voted for governor at the most 16408  
recent regular state election in the district. A nominating 16409  
petition shall not be accepted for filing or filed if it appears 16410  
on its face to contain signatures aggregating in number more than 16411  
twice the minimum aggregate number of signatures required by this 16412  
section. A nominating petition shall be filed with the board of 16413  
elections not later than four p.m. of the ninetieth day before the 16414  
day of the general election. 16415

**Sec. 1909.11.** A county court judge has jurisdiction in any 16416  
action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 16417  
of the Revised Code if the residential premises that are the 16418  
subject of the action are located within the territorial 16419

jurisdiction of the judge's county court district. 16420

**Sec. 1923.01.** (A) As provided in this chapter, any judge of a 16421  
county or municipal court or a court of common pleas, within the 16422  
judge's proper area of jurisdiction, may inquire about persons who 16423  
make unlawful and forcible entry into lands or tenements and 16424  
detain them, and about persons who make a lawful and peaceable 16425  
entry into lands or tenements and hold them unlawfully and by 16426  
force. If, upon the inquiry, it is found that an unlawful and 16427  
forcible entry has been made and the lands or tenements are 16428  
detained, or that, after a lawful entry, lands or tenements are 16429  
held unlawfully and by force, a judge shall cause the plaintiff in 16430  
an action under this chapter to have restitution of the lands or 16431  
tenements. 16432

(B) An action shall be brought under this chapter within two 16433  
years after the cause of action accrues. 16434

(C) As used in this chapter: 16435

(1) "Tenant" means a person who is entitled under a rental 16436  
agreement to the use or occupancy of premises, other than premises 16437  
located in a manufactured home park, to the exclusion of others, 16438  
except that as used in division (A)(6) of section 1923.02 and 16439  
section 1923.051 of the Revised Code, "tenant" includes a 16440  
manufactured home park resident. 16441

(2) "Landlord" means the owner, lessor, or sublessor of 16442  
premises, or the agent or person the landlord authorizes to manage 16443  
premises or to receive rent from a tenant under a rental 16444  
agreement, except, if required by the facts of the action to which 16445  
the term is applied, "landlord" means a park operator. 16446

(3) "Resident" has the same meaning as in section ~~3733.01~~ 16447  
4781.01 of the Revised Code. 16448

(4) "Residential premises" has the same meaning as in section 16449

5321.01 of the Revised Code, except, if required by the facts of 16450  
the action to which the term is applied, "residential premises" 16451  
has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised 16452  
Code. 16453

(5) "Rental agreement" means any agreement or lease, written 16454  
or oral, that establishes or modifies the terms, conditions, 16455  
rules, or other provisions concerning the use or occupancy of 16456  
premises by one of the parties to the agreement or lease, except 16457  
that "rental agreement," as used in division (A)(13) of section 16458  
1923.02 of the Revised Code and where the context requires as used 16459  
in this chapter, means a rental agreement as defined in division 16460  
(D) of section 5322.01 of the Revised Code. 16461

(6) "Controlled substance" has the same meaning as in section 16462  
3719.01 of the Revised Code. 16463

(7) "School premises" has the same meaning as in section 16464  
2925.01 of the Revised Code. 16465

(8) "Sexually oriented offense" and "child-victim oriented 16466  
offense" have the same meanings as in section 2950.01 of the 16467  
Revised Code. 16468

(9) "Recreational vehicle" and "mobile home" have the same 16469  
meanings as in section 4501.01 of the Revised Code. 16470

(10) "Manufactured home" has the same meaning as in section 16471  
3781.06 of the Revised Code. 16472

(11) "Manufactured home park" has the same meaning as in 16473  
section ~~3733.01~~ 4781.01 of the Revised Code and also means any 16474  
tract of land upon which one or two manufactured or mobile homes 16475  
used for habitation are parked, either free of charge or for 16476  
revenue purposes, pursuant to rental agreements between the owners 16477  
of the manufactured or mobile homes and the owner of the tract of 16478  
land. 16479

(12) "Park operator" has the same meaning as in section 16480  
~~3733.01~~ 4781.01 of the Revised Code and also means a landlord of 16481  
premises upon which one or two manufactured or mobile homes used 16482  
for habitation are parked, either free of charge or for revenue 16483  
purposes, pursuant to rental agreements between the owners of the 16484  
manufactured or mobile homes and a landlord who is not licensed as 16485  
a manufactured home park operator pursuant to Chapter ~~3733.~~ 4781. 16486  
of the Revised Code. 16487

(13) "Personal property" means tangible personal property 16488  
other than a manufactured home, mobile home, or recreational 16489  
vehicle that is the subject of an action under this chapter. 16490

(14) "Preschool or child day-care center premises" has the 16491  
same meaning as in section 2950.034 of the Revised Code. 16492

**Sec. 1923.02.** (A) Proceedings under this chapter may be had 16493  
as follows: 16494

(1) Against tenants or manufactured home park residents 16495  
holding over their terms; 16496

(2) Against tenants or manufactured home park residents in 16497  
possession under an oral tenancy, who are in default in the 16498  
payment of rent as provided in division (B) of this section; 16499

(3) In sales of real estate, on executions, orders, or other 16500  
judicial process, when the judgment debtor was in possession at 16501  
the time of the rendition of the judgment or decree, by virtue of 16502  
which the sale was made; 16503

(4) In sales by executors, administrators, or guardians, and 16504  
on partition, when any of the parties to the complaint were in 16505  
possession at the commencement of the action, after the sales, so 16506  
made on execution or otherwise, have been examined by the proper 16507  
court and adjudged legal; 16508

(5) When the defendant is an occupier of lands or tenements, 16509

without color of title, and the complainant has the right of 16510  
possession to them; 16511

(6) In any other case of the unlawful and forcible detention 16512  
of lands or tenements. For purposes of this division, in addition 16513  
to any other type of unlawful and forcible detention of lands or 16514  
tenements, such a detention may be determined to exist when both 16515  
of the following apply: 16516

(a) A tenant fails to vacate residential premises within 16517  
three days after both of the following occur: 16518

(i) The tenant's landlord has actual knowledge of or has 16519  
reasonable cause to believe that the tenant, any person in the 16520  
tenant's household, or any person on the premises with the consent 16521  
of the tenant previously has or presently is engaged in a 16522  
violation of Chapter 2925. or 3719. of the Revised Code, or of a 16523  
municipal ordinance that is substantially similar to any section 16524  
in either of those chapters, which involves a controlled substance 16525  
and which occurred in, is occurring in, or otherwise was or is 16526  
connected with the premises, whether or not the tenant or other 16527  
person has been charged with, has pleaded guilty to or been 16528  
convicted of, or has been determined to be a delinquent child for 16529  
an act that, if committed by an adult, would be a violation as 16530  
described in this division. For purposes of this division, a 16531  
landlord has "actual knowledge of or has reasonable cause to 16532  
believe" that a tenant, any person in the tenant's household, or 16533  
any person on the premises with the consent of the tenant 16534  
previously has or presently is engaged in a violation as described 16535  
in this division if a search warrant was issued pursuant to 16536  
Criminal Rule 41 or Chapter 2933. of the Revised Code; the 16537  
affidavit presented to obtain the warrant named or described the 16538  
tenant or person as the individual to be searched and particularly 16539  
described the tenant's premises as the place to be searched, named 16540  
or described one or more controlled substances to be searched for 16541

and seized, stated substantially the offense under Chapter 2925. 16542  
or 3719. of the Revised Code or the substantially similar 16543  
municipal ordinance that occurred in, is occurring in, or 16544  
otherwise was or is connected with the tenant's premises, and 16545  
states the factual basis for the affiant's belief that the 16546  
controlled substances are located on the tenant's premises; the 16547  
warrant was properly executed by a law enforcement officer and any 16548  
controlled substance described in the affidavit was found by that 16549  
officer during the search and seizure; and, subsequent to the 16550  
search and seizure, the landlord was informed by that or another 16551  
law enforcement officer of the fact that the tenant or person has 16552  
or presently is engaged in a violation as described in this 16553  
division and it occurred in, is occurring in, or otherwise was or 16554  
is connected with the tenant's premises. 16555

(ii) The landlord gives the tenant the notice required by 16556  
division (C) of section 5321.17 of the Revised Code. 16557

(b) The court determines, by a preponderance of the evidence, 16558  
that the tenant, any person in the tenant's household, or any 16559  
person on the premises with the consent of the tenant previously 16560  
has or presently is engaged in a violation as described in 16561  
division (A)(6)(a)(i) of this section. 16562

(7) In cases arising out of Chapter 5313. of the Revised 16563  
Code. In those cases, the court has the authority to declare a 16564  
forfeiture of the vendee's rights under a land installment 16565  
contract and to grant any other claims arising out of the 16566  
contract. 16567

(8) Against tenants who have breached an obligation that is 16568  
imposed by section 5321.05 of the Revised Code, other than the 16569  
obligation specified in division (A)(9) of that section, and that 16570  
materially affects health and safety. Prior to the commencement of 16571  
an action under this division, notice shall be given to the tenant 16572  
and compliance secured with section 5321.11 of the Revised Code. 16573

|  |   |
|--|---|
| (9) Against tenants who have breached an obligation imposed upon them by a written rental agreement;   | 16574<br>16575  |
| (10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a park operator. Nothing in this division precludes the commencement of an action under division (A)(12) of this section when the additional circumstances described in that division apply.  | 16576<br>16577<br>16578<br>16579<br>16580<br>16581                            |
| (11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the <del>public health council</del> <u>manufactured homes commission</u> , or of applicable state and local health and safety codes and who have been notified of the violations in compliance with section <del>3733.13</del> <u>4781.45</u> of the Revised Code;  | 16582<br>16583<br>16584<br>16585<br>16586<br>16587                            |
| (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; | 16588<br>16589<br>16590<br>16591<br>16592<br>16593<br>16594<br>16595<br>16596 |
| (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;   | 16597<br>16598<br>16599<br>16600  |
| (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  | 16601<br>16602<br>16603<br>16604  |

the following apply: 16605

(a) The resident's or occupant's name appears on the state 16606  
registry of sex offenders and child-victim offenders maintained 16607  
under section 2950.13 of the Revised Code. 16608

(b) The state registry of sex offenders and child-victim 16609  
offenders indicates that the resident or occupant was convicted of 16610  
or pleaded guilty to a sexually oriented offense or a child-victim 16611  
oriented offense in a criminal prosecution and was not sentenced 16612  
to a serious youthful offender dispositional sentence for that 16613  
offense. 16614

(15) Against any tenant who permits any person to occupy 16615  
residential premises located within one thousand feet of any 16616  
school premises or preschool or child day-care center premises if 16617  
both of the following apply to the person: 16618

(a) The person's name appears on the state registry of sex 16619  
offenders and child-victim offenders maintained under section 16620  
2950.13 of the Revised Code. 16621

(b) The state registry of sex offenders and child-victim 16622  
offenders indicates that the person was convicted of or pleaded 16623  
guilty to a sexually oriented offense or a child-victim oriented 16624  
offense in a criminal prosecution and was not sentenced to a 16625  
serious youthful offender dispositional sentence for that offense. 16626

(B) If a tenant or manufactured home park resident holding 16627  
under an oral tenancy is in default in the payment of rent, the 16628  
tenant or resident forfeits the right of occupancy, and the 16629  
landlord may, at the landlord's option, terminate the tenancy by 16630  
notifying the tenant or resident, as provided in section 1923.04 16631  
of the Revised Code, to leave the premises, for the restitution of 16632  
which an action may then be brought under this chapter. 16633

(C)(1) If a tenant or any other person with the tenant's 16634  
permission resides in or occupies residential premises that are 16635

located within one thousand feet of any school premises and is a 16636  
resident or occupant of the type described in division (A)(14) of 16637  
this section or a person of the type described in division (A)(15) 16638  
of this section, the landlord for those residential premises, upon 16639  
discovery that the tenant or other person is a resident, occupant, 16640  
or person of that nature, may terminate the rental agreement or 16641  
tenancy for those residential premises by notifying the tenant and 16642  
all other occupants, as provided in section 1923.04 of the Revised 16643  
Code, to leave the premises. 16644

(2) If a landlord is authorized to terminate a rental 16645  
agreement or tenancy pursuant to division (C)(1) of this section 16646  
but does not so terminate the rental agreement or tenancy, the 16647  
landlord is not liable in a tort or other civil action in damages 16648  
for any injury, death, or loss to person or property that 16649  
allegedly result from that decision. 16650

(D) This chapter does not apply to a student tenant as 16651  
defined by division (H) of section 5321.01 of the Revised Code 16652  
when the college or university proceeds to terminate a rental 16653  
agreement pursuant to section 5321.031 of the Revised Code. 16654

**Sec. 1923.061.** (A) Any defense in an action under this 16655  
chapter may be asserted at trial. 16656

(B) In an action for possession of residential premises based 16657  
upon nonpayment of the rent or in an action for rent when the 16658  
tenant or manufactured home park resident is in possession, the 16659  
tenant or resident may counterclaim for any amount ~~he~~ the tenant 16660  
or resident may recover under the rental agreement or under 16661  
Chapter ~~3733-~~ 4781. or 5321. of the Revised Code. In that event, 16662  
the court from time to time may order the tenant or resident to 16663  
pay into court all or part of the past due rent and rent becoming 16664  
due during the pendency of the action. After trial and judgment, 16665  
the party to whom a net judgment is owed shall be paid first from 16666

the money paid into court, and any balance shall be satisfied as 16667  
any other judgment. If no rent remains due after application of 16668  
this division, judgment shall be entered for the tenant or 16669  
resident in the action for possession. If the tenant or resident 16670  
has paid into court an amount greater than that necessary to 16671  
satisfy a judgment obtained by the landlord, the balance shall be 16672  
returned by the court to the tenant or resident. 16673

**Sec. 1923.15.** During any proceeding involving residential 16674  
premises under this chapter, the court may order an appropriate 16675  
governmental agency to inspect the residential premises. If the 16676  
agency determines and the court finds conditions which constitute 16677  
a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised 16678  
Code, and if the premises have been vacated or are to be restored 16679  
to the landlord, the court may issue an order forbidding the 16680  
re-rental of the property until such conditions are corrected. If 16681  
the agency determines and the court finds such conditions, and if 16682  
the court finds that the tenant or manufactured home park resident 16683  
may remain in possession, the court may order such conditions 16684  
corrected. If such conditions have been caused by the tenant or 16685  
resident, the court may award damages to the landlord equal to the 16686  
reasonable cost of correcting such conditions. 16687

**Sec. 2151.33.** (A) Pending hearing of a complaint filed under 16688  
section 2151.27 of the Revised Code or a motion filed or made 16689  
under division (B) of this section and the service of citations, 16690  
the juvenile court may make any temporary disposition of any child 16691  
that it considers necessary to protect the best interest of the 16692  
child and that can be made pursuant to division (B) of this 16693  
section. Upon the certificate of one or more reputable practicing 16694  
physicians, the court may summarily provide for emergency medical 16695  
and surgical treatment that appears to be immediately necessary to 16696  
preserve the health and well-being of any child concerning whom a 16697

complaint or an application for care has been filed, pending the 16698  
service of a citation upon the child's parents, guardian, or 16699  
custodian. The court may order the parents, guardian, or 16700  
custodian, if the court finds the parents, guardian, or custodian 16701  
able to do so, to reimburse the court for the expense involved in 16702  
providing the emergency medical or surgical treatment. Any person 16703  
who disobeys the order for reimbursement may be adjudged in 16704  
contempt of court and punished accordingly. 16705

If the emergency medical or surgical treatment is furnished 16706  
to a child who is found at the hearing to be a nonresident of the 16707  
county in which the court is located and if the expense of the 16708  
medical or surgical treatment cannot be recovered from the 16709  
parents, legal guardian, or custodian of the child, the board of 16710  
county commissioners of the county in which the child has a legal 16711  
settlement shall reimburse the court for the reasonable cost of 16712  
the emergency medical or surgical treatment out of its general 16713  
fund. 16714

(B)(1) After a complaint, petition, writ, or other document 16715  
initiating a case dealing with an alleged or adjudicated abused, 16716  
neglected, or dependent child is filed and upon the filing or 16717  
making of a motion pursuant to division (C) of this section, the 16718  
court, prior to the final disposition of the case, may issue any 16719  
of the following temporary orders to protect the best interest of 16720  
the child: 16721

(a) An order granting temporary custody of the child to a 16722  
particular party; 16723

(b) An order for the taking of the child into custody 16724  
pursuant to section 2151.31 of the Revised Code pending the 16725  
outcome of the adjudicatory and dispositional hearings; 16726

(c) An order granting, limiting, or eliminating parenting 16727  
time or visitation rights with respect to the child; 16728

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|--|--|
| (d) An order requiring a party to vacate a residence that will be lawfully occupied by the child;  | 16729<br>16730   |
| (e) An order requiring a party to attend an appropriate counseling program that is reasonably available to that party;   | 16731<br>16732   |
| (f) Any other order that restrains or otherwise controls the conduct of any party which conduct would not be in the best interest of the child.  | 16733<br>16734<br>16735  |
| (2) Prior to the final disposition of a case subject to division (B)(1) of this section, the court shall do both of the following:   | 16736<br>16737<br>16738  |
| (a) Issue an order pursuant to Chapters 3119. to 3125. of the Revised Code requiring the parents, guardian, or person charged with the child's support to pay support for the child.   | 16739<br>16740<br>16741  |
| (b) Issue an order requiring the parents, guardian, or person charged with the child's support to continue to maintain any health insurance coverage for the child that existed at the time of the filing of the complaint, petition, writ, or other document, or to obtain health insurance coverage in accordance with sections 3119.29 to 3119.56 of the Revised Code.  | 16742<br>16743<br>16744<br>16745<br>16746<br>16747                   |
| (C)(1) A court may issue an order pursuant to division (B) of this section upon its own motion or if a party files a written motion or makes an oral motion requesting the issuance of the order and stating the reasons for it. Any notice sent by the court as a result of a motion pursuant to this division shall contain a notice that any party to a juvenile proceeding has the right to be represented by counsel and to have appointed counsel if the person is indigent. | 16748<br>16749<br>16750<br>16751<br>16752<br>16753<br>16754<br>16755 |
| (2) If a child is taken into custody pursuant to section 2151.31 of the Revised Code and placed in shelter care, the public children services agency or private child placing agency with which the child is placed in shelter care shall file or make a   | 16756<br>16757<br>16758<br>16759                                     |

motion as described in division (C)(1) of this section before the 16760  
end of the next day immediately after the date on which the child 16761  
was taken into custody and, at a minimum, shall request an order 16762  
for temporary custody under division (B)(1)(a) of this section. 16763

(3) A court that issues an order pursuant to division 16764  
(B)(1)(b) of this section shall comply with section 2151.419 of 16765  
the Revised Code. 16766

(D) The court may grant an ex parte order upon its own motion 16767  
or a motion filed or made pursuant to division (C) of this section 16768  
requesting such an order if it appears to the court that the best 16769  
interest and the welfare of the child require that the court issue 16770  
the order immediately. The court, if acting on its own motion, or 16771  
the person requesting the granting of an ex parte order, to the 16772  
extent possible, shall give notice of its intent or of the request 16773  
to the parents, guardian, or custodian of the child who is the 16774  
subject of the request. If the court issues an ex parte order, the 16775  
court shall hold a hearing to review the order within seventy-two 16776  
hours after it is issued or before the end of the next day after 16777  
the day on which it is issued, whichever occurs first. The court 16778  
shall give written notice of the hearing to all parties to the 16779  
action and shall appoint a guardian ad litem for the child prior 16780  
to the hearing. 16781

The written notice shall be given by all means that are 16782  
reasonably likely to result in the party receiving actual notice 16783  
and shall include all of the following: 16784

(1) The date, time, and location of the hearing; 16785

(2) The issues to be addressed at the hearing; 16786

(3) A statement that every party to the hearing has a right 16787  
to counsel and to court-appointed counsel, if the party is 16788  
indigent; 16789

(4) The name, telephone number, and address of the person 16790

requesting the order; 16791

(5) A copy of the order, except when it is not possible to 16792  
obtain it because of the exigent circumstances in the case. 16793

If the court does not grant an ex parte order pursuant to a 16794  
motion filed or made pursuant to division (C) of this section or 16795  
its own motion, the court shall hold a shelter care hearing on the 16796  
motion within ten days after the motion is filed. The court shall 16797  
give notice of the hearing to all affected parties in the same 16798  
manner as set forth in the Juvenile Rules. 16799

(E) The court, pending the outcome of the adjudicatory and 16800  
dispositional hearings, shall not issue an order granting 16801  
temporary custody of a child to a public children services agency 16802  
or private child placing agency pursuant to this section, unless 16803  
the court determines and specifically states in the order that the 16804  
continued residence of the child in the child's current home will 16805  
be contrary to the child's best interest and welfare and the court 16806  
complies with section 2151.419 of the Revised Code. 16807

(F) Each public children services agency and private child 16808  
placing agency that receives temporary custody of a child pursuant 16809  
to this section shall maintain in the child's case record written 16810  
documentation that it has placed the child, to the extent that it 16811  
is consistent with the best interest, welfare, and special needs 16812  
of the child, in the most family-like setting available and in 16813  
close proximity to the home of the parents, custodian, or guardian 16814  
of the child. 16815

(G) For good cause shown, any court order that is issued 16816  
pursuant to this section may be reviewed by the court at any time 16817  
upon motion of any party to the action or upon the motion of the 16818  
court. 16819

(H)(1) Pending the hearing of a complaint filed under section 16820  
2151.27 of the Revised Code or a motion filed or made under 16821

division (B) of this section and the service of citations, a 16822  
public children services agency may request that the 16823  
superintendent of the bureau of criminal identification and 16824  
investigation conduct a criminal records check with respect to 16825  
each parent, guardian, custodian, prospective custodian, or 16826  
prospective placement whose actions resulted in a temporary 16827  
disposition under division (A) of this section. The public 16828  
children services agency may request that the superintendent 16829  
obtain information from the federal bureau of investigation as 16830  
part of the criminal records check of each parent, guardian, 16831  
custodian, prospective custodian, or prospective placement. 16832

(2) Each public children services agency authorized by 16833  
division (H) of this section to request a criminal records check 16834  
shall do both of the following: 16835

(a) Provide to each parent, guardian, custodian, prospective 16836  
custodian, or prospective placement for whom a criminal records 16837  
check is requested a copy of the form prescribed pursuant to 16838  
division (C)(1) of section 109.572 of the Revised Code and a 16839  
standard fingerprint impression sheet prescribed pursuant to 16840  
division (C)(2) of that section and obtain the completed form and 16841  
impression sheet from the parent, guardian, custodian, prospective 16842  
custodian, or prospective placement; 16843

(b) Forward the completed form and impression sheet to the 16844  
superintendent of the bureau of criminal identification and 16845  
investigation. 16846

(3) A parent, guardian, custodian, prospective custodian, or 16847  
prospective placement who is given a form and fingerprint 16848  
impression sheet under division (H)(2)(a) of this section and who 16849  
fails to complete the form or provide fingerprint impressions may 16850  
be held in contempt of court. 16851

**Sec. 2151.412.** (A) Each public children services agency and 16852

private child placing agency shall prepare and maintain a case 16853  
plan for any child to whom the agency is providing services and to 16854  
whom any of the following applies: 16855

(1) The agency filed a complaint pursuant to section 2151.27 16856  
of the Revised Code alleging that the child is an abused, 16857  
neglected, or dependent child; 16858

(2) The agency has temporary or permanent custody of the 16859  
child; 16860

(3) The child is living at home subject to an order for 16861  
protective supervision; 16862

(4) The child is in a planned permanent living arrangement. 16863

Except as provided by division (A)(2) of section 5103.153 of 16864  
the Revised Code, a private child placing agency providing 16865  
services to a child who is the subject of a voluntary permanent 16866  
custody surrender agreement entered into under division (B)(2) of 16867  
section 5103.15 of the Revised Code is not required to prepare and 16868  
maintain a case plan for that child. 16869

(B) Each public children services agency shall prepare and 16870  
maintain a case plan or a family service plan for any child for 16871  
whom the agency is providing in-home services pursuant to an 16872  
alternative response. 16873

(C)(1) The director of job and family services shall adopt 16874  
rules pursuant to Chapter 119. of the Revised Code setting forth 16875  
the content and format of case plans required by division (A) of 16876  
this section and establishing procedures for developing, 16877  
implementing, and changing the case plans. The rules shall at a 16878  
minimum comply with the requirements of Title IV-E of the "Social 16879  
Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended. 16880

(2) The director of job and family services shall adopt rules 16881  
pursuant to Chapter 119. of the Revised Code requiring public 16882

children services agencies and private child placing agencies to 16883  
maintain case plans for children and their families who are 16884  
receiving services in their homes from the agencies and for whom 16885  
case plans are not required by division (A) of this section. The 16886  
rules for public children services agencies shall include the 16887  
requirements for case plans or family service plans maintained for 16888  
children and their families who are receiving services in their 16889  
homes from public children services agencies pursuant to an 16890  
alternative response. The agencies shall maintain case plans and 16891  
family service plans as required by those rules; however, the case 16892  
plans and family service plans shall not be subject to any other 16893  
provision of this section except as specifically required by the 16894  
rules. 16895

(D) Each public children services agency and private child 16896  
placing agency that is required by division (A) of this section to 16897  
maintain a case plan shall file the case plan with the court prior 16898  
to the child's adjudicatory hearing but no later than thirty days 16899  
after the earlier of the date on which the complaint in the case 16900  
was filed or the child was first placed into shelter care. If the 16901  
agency does not have sufficient information prior to the 16902  
adjudicatory hearing to complete any part of the case plan, the 16903  
agency shall specify in the case plan the additional information 16904  
necessary to complete each part of the case plan and the steps 16905  
that will be taken to obtain that information. All parts of the 16906  
case plan shall be completed by the earlier of thirty days after 16907  
the adjudicatory hearing or the date of the dispositional hearing 16908  
for the child. 16909

(E) Any agency that is required by division (A) of this 16910  
section to prepare a case plan shall attempt to obtain an 16911  
agreement among all parties, including, but not limited to, the 16912  
parents, guardian, or custodian of the child and the guardian ad 16913  
litem of the child regarding the content of the case plan. If all 16914

parties agree to the content of the case plan and the court 16915  
approves it, the court shall journalize it as part of its 16916  
dispositional order. If the agency cannot obtain an agreement upon 16917  
the contents of the case plan or the court does not approve it, 16918  
the parties shall present evidence on the contents of the case 16919  
plan at the dispositional hearing. The court, based upon the 16920  
evidence presented at the dispositional hearing and the best 16921  
interest of the child, shall determine the contents of the case 16922  
plan and journalize it as part of the dispositional order for the 16923  
child. 16924

(F)(1) All parties, including the parents, guardian, or 16925  
custodian of the child, are bound by the terms of the journalized 16926  
case plan. A party that fails to comply with the terms of the 16927  
journalized case plan may be held in contempt of court. 16928

(2) Any party may propose a change to a substantive part of 16929  
the case plan, including, but not limited to, the child's 16930  
placement and the visitation rights of any party. A party 16931  
proposing a change to the case plan shall file the proposed change 16932  
with the court and give notice of the proposed change in writing 16933  
before the end of the day after the day of filing it to all 16934  
parties and the child's guardian ad litem. All parties and the 16935  
guardian ad litem shall have seven days from the date the notice 16936  
is sent to object to and request a hearing on the proposed change. 16937

(a) If it receives a timely request for a hearing, the court 16938  
shall schedule a hearing pursuant to section 2151.417 of the 16939  
Revised Code to be held no later than thirty days after the 16940  
request is received by the court. The court shall give notice of 16941  
the date, time, and location of the hearing to all parties and the 16942  
guardian ad litem. The agency may implement the proposed change 16943  
after the hearing, if the court approves it. The agency shall not 16944  
implement the proposed change unless it is approved by the court. 16945

(b) If it does not receive a timely request for a hearing, 16946

the court may approve the proposed change without a hearing. If 16947  
the court approves the proposed change without a hearing, it shall 16948  
journalize the case plan with the change not later than fourteen 16949  
days after the change is filed with the court. If the court does 16950  
not approve the proposed change to the case plan, it shall 16951  
schedule a hearing to be held pursuant to section 2151.417 of the 16952  
Revised Code no later than thirty days after the expiration of the 16953  
fourteen-day time period and give notice of the date, time, and 16954  
location of the hearing to all parties and the guardian ad litem 16955  
of the child. If, despite the requirements of division (F)(2) of 16956  
this section, the court neither approves and journalizes the 16957  
proposed change nor conducts a hearing, the agency may implement 16958  
the proposed change not earlier than fifteen days after it is 16959  
submitted to the court. 16960

(3) If an agency has reasonable cause to believe that a child 16961  
is suffering from illness or injury and is not receiving proper 16962  
care and that an appropriate change in the child's case plan is 16963  
necessary to prevent immediate or threatened physical or emotional 16964  
harm, to believe that a child is in immediate danger from the 16965  
child's surroundings and that an immediate change in the child's 16966  
case plan is necessary to prevent immediate or threatened physical 16967  
or emotional harm to the child, or to believe that a parent, 16968  
guardian, custodian, or other member of the child's household has 16969  
abused or neglected the child and that the child is in danger of 16970  
immediate or threatened physical or emotional harm from that 16971  
person unless the agency makes an appropriate change in the 16972  
child's case plan, it may implement the change without prior 16973  
agreement or a court hearing and, before the end of the next day 16974  
after the change is made, give all parties, the guardian ad litem 16975  
of the child, and the court notice of the change. Before the end 16976  
of the third day after implementing the change in the case plan, 16977  
the agency shall file a statement of the change with the court and 16978  
give notice of the filing accompanied by a copy of the statement 16979

to all parties and the guardian ad litem. All parties and the guardian ad litem shall have ten days from the date the notice is sent to object to and request a hearing on the change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency shall continue to administer the case plan with the change after the hearing, if the court approves the change. If the court does not approve the change, the court shall make appropriate changes to the case plan and shall journalize the case plan.

(b) If it does not receive a timely request for a hearing, the court may approve the change without a hearing. If the court approves the change without a hearing, it shall journalize the case plan with the change within fourteen days after receipt of the change. If the court does not approve the change to the case plan, it shall schedule a hearing under section 2151.417 of the Revised Code to be held no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child.

(G)(1) All case plans for children in temporary custody shall have the following general goals:

(a) Consistent with the best interest and special needs of the child, to achieve a safe out-of-home placement in the least restrictive, most family-like setting available and in close proximity to the home from which the child was removed or the home in which the child will be permanently placed;

(b) To eliminate with all due speed the need for the

out-of-home placement so that the child can safely return home. 17011

(2) The director of job and family services shall adopt rules 17012  
pursuant to Chapter 119. of the Revised Code setting forth the 17013  
general goals of case plans for children subject to dispositional 17014  
orders for protective supervision, a planned permanent living 17015  
arrangement, or permanent custody. 17016

(H) In the agency's development of a case plan and the 17017  
court's review of the case plan, the child's health and safety 17018  
shall be the paramount concern. The agency and the court shall be 17019  
guided by the following general priorities: 17020

(1) A child who is residing with or can be placed with the 17021  
child's parents within a reasonable time should remain in their 17022  
legal custody even if an order of protective supervision is 17023  
required for a reasonable period of time; 17024

(2) If both parents of the child have abandoned the child, 17025  
have relinquished custody of the child, have become incapable of 17026  
supporting or caring for the child even with reasonable 17027  
assistance, or have a detrimental effect on the health, safety, 17028  
and best interest of the child, the child should be placed in the 17029  
legal custody of a suitable member of the child's extended family; 17030

(3) If a child described in division (H)(2) of this section 17031  
has no suitable member of the child's extended family to accept 17032  
legal custody, the child should be placed in the legal custody of 17033  
a suitable nonrelative who shall be made a party to the 17034  
proceedings after being given legal custody of the child; 17035

(4) If the child has no suitable member of the child's 17036  
extended family to accept legal custody of the child and no 17037  
suitable nonrelative is available to accept legal custody of the 17038  
child and, if the child temporarily cannot or should not be placed 17039  
with the child's parents, guardian, or custodian, the child should 17040  
be placed in the temporary custody of a public children services 17041

agency or a private child placing agency; 17042

(5) If the child cannot be placed with either of the child's 17043  
parents within a reasonable period of time or should not be placed 17044  
with either, if no suitable member of the child's extended family 17045  
or suitable nonrelative is available to accept legal custody of 17046  
the child, and if the agency has a reasonable expectation of 17047  
placing the child for adoption, the child should be committed to 17048  
the permanent custody of the public children services agency or 17049  
private child placing agency; 17050

(6) If the child is to be placed for adoption or foster care, 17051  
the placement shall not be delayed or denied on the basis of the 17052  
child's or adoptive or foster family's race, color, or national 17053  
origin. 17054

(I) The case plan for a child in temporary custody shall 17055  
include at a minimum the following requirements if the child is or 17056  
has been the victim of abuse or neglect or if the child witnessed 17057  
the commission in the child's household of abuse or neglect 17058  
against a sibling of the child, a parent of the child, or any 17059  
other person in the child's household: 17060

(1) A requirement that the child's parents, guardian, or 17061  
custodian participate in mandatory counseling; 17062

(2) A requirement that the child's parents, guardian, or 17063  
custodian participate in any supportive services that are required 17064  
by or provided pursuant to the child's case plan. 17065

(J) A case plan may include, as a supplement, a plan for 17066  
locating a permanent family placement. The supplement shall not be 17067  
considered part of the case plan for purposes of division (E) of 17068  
this section. 17069

(K)(1) A public children services agency may request that the 17070  
superintendent of the bureau of criminal identification and 17071  
investigation conduct a criminal records check with respect to a 17072

parent, guardian, custodian, prospective custodian, or prospective placement whose actions result in a finding under division (A)(1) of this section that a child is an abused, neglected, or dependent child. The public children services agency shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. 17073  
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(2) A public children services agency that requests a criminal records check under division (K)(1) of this section shall do both of the following: 17079  
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(a) Provide to each parent, guardian, custodian, prospective custodian, or prospective placement for whom a criminal records check is requested 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 parent, guardian, custodian, prospective custodian, or prospective placement; 17082  
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(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation. 17090  
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(3) A parent, guardian, custodian, prospective custodian, or prospective placement who is given a form and fingerprint impression sheet under division (K)(2)(a) of this section and who fails to complete the form or provide fingerprint impressions may be held in contempt of court. 17093  
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**Sec. 2151.86.** (A)(1) The appointing or hiring officer of any entity that appoints or employs any person responsible for a child's care in out-of-home care shall request the superintendent of BCII to conduct a criminal records check with respect to any person who is under final consideration for appointment or employment as a person responsible for a child's care in 17098  
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out-of-home care, except that section 3319.39 of the Revised Code 17104  
shall apply instead of this section if the out-of-home care entity 17105  
is a public school, educational service center, or chartered 17106  
nonpublic school. 17107

(2) At the times specified in this division, the 17108  
administrative director of an agency, or attorney, who arranges an 17109  
adoption for a prospective adoptive parent shall request the 17110  
superintendent of BCII to conduct a criminal records check with 17111  
respect to that prospective adoptive parent and a criminal records 17112  
check with respect to all persons eighteen years of age or older 17113  
who reside with the prospective adoptive parent. The 17114  
administrative director or attorney shall request a criminal 17115  
records check pursuant to this division at the time of the initial 17116  
home study, every four years after the initial home study at the 17117  
time of an update, and at the time that an adoptive home study is 17118  
completed as a new home study. 17119

(3) Before a recommending agency submits a recommendation to 17120  
the department of job and family services on whether the 17121  
department should issue a certificate to a foster home under 17122  
section 5103.03 of the Revised Code, and every four years 17123  
thereafter prior to a recertification under that section, the 17124  
administrative director of the agency shall request that the 17125  
superintendent of BCII conduct a criminal records check with 17126  
respect to the prospective foster caregiver and a criminal records 17127  
check with respect to all other persons eighteen years of age or 17128  
older who reside with the foster caregiver. 17129

(B)(1) If a person subject to a criminal records check under 17130  
division (A)(1) of this section does not present proof that the 17131  
person has been a resident of this state for the five-year period 17132  
immediately prior to the date upon which the criminal records 17133  
check is requested or does not provide evidence that within that 17134  
five-year period the superintendent of BCII has requested 17135

information about the person from the federal bureau of 17136  
investigation in a criminal records check, the appointing or 17137  
hiring officer shall request that the superintendent of BCII 17138  
obtain information from the federal bureau of investigation as a 17139  
part of the criminal records check, including fingerprint-based 17140  
checks of national crime information databases as described in 42 17141  
U.S.C. 671. If a person subject to a criminal records check under 17142  
division (A)(1) of this section presents proof that the person has 17143  
been a resident of this state for that five-year period, the 17144  
appointing or hiring officer or attorney may request that the 17145  
superintendent of BCII include information from the federal bureau 17146  
of investigation in the criminal records check, including 17147  
fingerprint-based checks of national crime information databases 17148  
as described in 42 U.S.C. 671. 17149

When the administrative director of an agency, or attorney, 17150  
who arranges an adoption for a prospective parent requests, at the 17151  
time of the initial home study, a criminal records check for a 17152  
person pursuant to division (A)(2) of this section, the 17153  
administrative director or attorney shall request that the 17154  
superintendent of BCII obtain information from the federal bureau 17155  
of investigation as part of the criminal records check, including 17156  
fingerprint-based checks of national crime information databases 17157  
as described in 42 U.S.C. 671, for the person subject to the 17158  
criminal records check. In all other cases in which the 17159  
administrative director of an agency, or attorney, who arranges an 17160  
adoption for a prospective parent requests a criminal records 17161  
check for a person pursuant to division (A)(2) of this section, 17162  
the administrative director or attorney may request that the 17163  
superintendent of BCII include information from the federal bureau 17164  
of investigation in the criminal records check, including 17165  
fingerprint-based checks of national crime information databases 17166  
as described in 42 U.S.C. 671. 17167

When the administrative director of a recommending agency 17168  
requests, before submitting a recommendation to the department of 17169  
job and family services on whether the department should issue a 17170  
certificate to a foster home under section 5103.03 of the Revised 17171  
Code, a criminal records check for a person pursuant to division 17172  
(A)(3) of this section, the administrative director shall request 17173  
that the superintendent of BCII obtain information from the 17174  
federal bureau of investigation as part of a criminal records 17175  
check, including fingerprint-based checks of national crime 17176  
information databases as described in 42 U.S.C. 671, for the 17177  
person subject to the criminal records check. In all other cases 17178  
in which the administrative director of a recommending agency 17179  
requests a criminal records check for a person pursuant to 17180  
division (A)(3) of this section, the administrative director may 17181  
request that the superintendent of BCII include information from 17182  
the federal bureau of investigation in the criminal records check, 17183  
including fingerprint-based checks of national crime information 17184  
databases as described in 42 U.S.C. 671. 17185

Prior to a hearing on a final decree of adoption or 17186  
interlocutory order of adoption by a probate court, the 17187  
administrative director of an agency, or an attorney, who arranges 17188  
an adoption for a prospective parent shall provide to the clerk of 17189  
the probate court either of the following: 17190

(a) Any information received pursuant to a request made under 17191  
this division from the superintendent of BCII or the federal 17192  
bureau of investigation as part of the criminal records check, 17193  
including fingerprint-based checks of national crime information 17194  
databases as described in 42 U.S.C. 671, for the person subject to 17195  
the criminal records check; 17196

(b) Written notification that the person subject to a 17197  
criminal records check pursuant to this division failed upon 17198  
request to provide the information necessary to complete the form 17199

or failed to provide impressions of the person's fingerprints as 17200  
required under division (B)(2) of this section. 17201

(2) An appointing or hiring officer, administrative director, 17202  
or attorney required by division (A) of this section to request a 17203  
criminal records check shall provide to each person subject to a 17204  
criminal records check a copy of the form prescribed pursuant to 17205  
division (C)(1) of section 109.572 of the Revised Code and a 17206  
standard impression sheet to obtain fingerprint impressions 17207  
prescribed pursuant to division (C)(2) of section 109.572 of the 17208  
Revised Code, obtain the completed form and impression sheet from 17209  
the person, and forward the completed form and impression sheet to 17210  
the superintendent of BCII at the time the criminal records check 17211  
is requested. 17212

Any person subject to a criminal records check who receives 17213  
pursuant to this division a copy of the form prescribed pursuant 17214  
to division (C)(1) of section 109.572 of the Revised Code and a 17215  
copy of an impression sheet prescribed pursuant to division (C)(2) 17216  
of that section and who is requested to complete the form and 17217  
provide a set of fingerprint impressions shall complete the form 17218  
or provide all the information necessary to complete the form and 17219  
shall provide the impression sheet with the impressions of the 17220  
person's fingerprints. If a person subject to a criminal records 17221  
check, upon request, fails to provide the information necessary to 17222  
complete the form or fails to provide impressions of the person's 17223  
fingerprints, the appointing or hiring officer shall not appoint 17224  
or employ the person as a person responsible for a child's care in 17225  
out-of-home care, a probate court may not issue a final decree of 17226  
adoption or an interlocutory order of adoption making the person 17227  
an adoptive parent, and the department of job and family services 17228  
shall not issue a certificate authorizing the prospective foster 17229  
caregiver to operate a foster home. 17230

(C)(1) No appointing or hiring officer shall appoint or 17231

employ a person as a person responsible for a child's care in 17232  
out-of-home care, the department of job and family services shall 17233  
not issue a certificate under section 5103.03 of the Revised Code 17234  
authorizing a prospective foster caregiver to operate a foster 17235  
home, and no probate court shall issue a final decree of adoption 17236  
or an interlocutory order of adoption making a person an adoptive 17237  
parent if the person or, in the case of a prospective foster 17238  
caregiver or prospective adoptive parent, any person eighteen 17239  
years of age or older who resides with the prospective foster 17240  
caregiver or prospective adoptive parent previously has been 17241  
convicted of or pleaded guilty to any of the violations described 17242  
in division (A)~~(8)~~(5) of section 109.572 of the Revised Code, 17243  
unless the person meets rehabilitation standards established in 17244  
rules adopted under division (F) of this section. 17245

(2) The appointing or hiring officer may appoint or employ a 17246  
person as a person responsible for a child's care in out-of-home 17247  
care conditionally until the criminal records check required by 17248  
this section is completed and the officer receives the results of 17249  
the criminal records check. If the results of the criminal records 17250  
check indicate that, pursuant to division (C)(1) of this section, 17251  
the person subject to the criminal records check does not qualify 17252  
for appointment or employment, the officer shall release the 17253  
person from appointment or employment. 17254

(3) Prior to certification or recertification under section 17255  
5103.03 of the Revised Code, the prospective foster caregiver 17256  
subject to a criminal records check under division (A)(3) of this 17257  
section shall notify the recommending agency of the revocation of 17258  
any foster home license, certificate, or other similar 17259  
authorization in another state occurring within the five years 17260  
prior to the date of application to become a foster caregiver in 17261  
this state. The failure of a prospective foster caregiver to 17262  
notify the recommending agency of any revocation of that type in 17263

another state that occurred within that five-year period shall be 17264  
grounds for denial of the person's foster home application or the 17265  
revocation of the person's foster home certification, whichever is 17266  
applicable. If a person has had a revocation in another state 17267  
within the five years prior to the date of the application, the 17268  
department of job and family services shall not issue a foster 17269  
home certificate to the prospective foster caregiver. 17270

(D) The appointing or hiring officer, administrative 17271  
director, or attorney shall pay to the bureau of criminal 17272  
identification and investigation the fee prescribed pursuant to 17273  
division (C)(3) of section 109.572 of the Revised Code for each 17274  
criminal records check conducted in accordance with that section 17275  
upon a request pursuant to division (A) of this section. The 17276  
officer, director, or attorney may charge the person subject to 17277  
the criminal records check a fee for the costs the officer, 17278  
director, or attorney incurs in obtaining the criminal records 17279  
check. A fee charged under this division shall not exceed the 17280  
amount of fees the officer, director, or attorney pays for the 17281  
criminal records check. If a fee is charged under this division, 17282  
the officer, director, or attorney shall notify the person who is 17283  
the applicant at the time of the person's initial application for 17284  
appointment or employment, an adoption to be arranged, or a 17285  
certificate to operate a foster home of the amount of the fee and 17286  
that, unless the fee is paid, the person who is the applicant will 17287  
not be considered for appointment or employment or as an adoptive 17288  
parent or foster caregiver. 17289

(E) The report of any criminal records check conducted by the 17290  
bureau of criminal identification and investigation in accordance 17291  
with section 109.572 of the Revised Code and pursuant to a request 17292  
made under division (A) of this section is not a public record for 17293  
the purposes of section 149.43 of the Revised Code and shall not 17294  
be made available to any person other than the following: 17295

|   |   |
|---|---|
| (1) The person who is the subject of the criminal records check or the person's representative;   | 17296<br>17297  |
| (2) The appointing or hiring officer, administrative director, or attorney requesting the criminal records check or the officer's, director's, or attorney's representative;  | 17298<br>17299<br>17300   |
| (3) The department of job and family services, a county department of job and family services, or a public children services agency;  | 17301<br>17302<br>17303   |
| (4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment, a final decree of adoption or interlocutory order of adoption, or a foster home certificate.  | 17304<br>17305<br>17306<br>17307  |
| (F) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (A) <del>(8)</del> (5) of section 109.572 of the Revised Code must meet for an appointing or hiring officer to appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court to issue a final decree of adoption or interlocutory order of adoption making the person an adoptive parent, or the department to issue a certificate authorizing the prospective foster caregiver to operate a foster home or not revoke a foster home certificate for a violation specified in section 5103.0328 of the Revised Code. | 17308<br>17309<br>17310<br>17311<br>17312<br>17313<br>17314<br>17315<br>17316<br>17317<br>17318<br>17319<br>17320 |
| (G) An appointing or hiring officer, administrative director, or attorney required by division (A) of this section to request a criminal records check shall inform each person who is the applicant, at the time of the person's initial application for appointment or employment, an adoption to be arranged, or a foster home certificate, that the person subject to the criminal records  | 17321<br>17322<br>17323<br>17324<br>17325<br>17326  |

check is required to provide a set of impressions of the person's 17327  
fingerprints and that a criminal records check is required to be 17328  
conducted and satisfactorily completed in accordance with section 17329  
109.572 of the Revised Code. 17330

(H) The department of job and family services may waive the 17331  
requirement that a criminal records check based on fingerprints be 17332  
conducted for an adult resident of a prospective adoptive or 17333  
foster home or the home of a foster caregiver if the recommending 17334  
agency documents to the department's satisfaction that the adult 17335  
resident is physically unable to comply with the fingerprinting 17336  
requirement and poses no danger to foster children or adoptive 17337  
children who may be placed in the home. In such cases, the 17338  
recommending or approving agency shall request that the bureau of 17339  
criminal identification and investigation conduct a criminal 17340  
records check using the person's name and social security number. 17341

(I) As used in this section: 17342

(1) "Children's hospital" means any of the following: 17343

(a) A hospital registered under section 3701.07 of the 17344  
Revised Code that provides general pediatric medical and surgical 17345  
care, and in which at least seventy-five per cent of annual 17346  
inpatient discharges for the preceding two calendar years were 17347  
individuals less than eighteen years of age; 17348

(b) A distinct portion of a hospital registered under section 17349  
3701.07 of the Revised Code that provides general pediatric 17350  
medical and surgical care, has a total of at least one hundred 17351  
fifty registered pediatric special care and pediatric acute care 17352  
beds, and in which at least seventy-five per cent of annual 17353  
inpatient discharges for the preceding two calendar years were 17354  
individuals less than eighteen years of age; 17355

(c) A distinct portion of a hospital, if the hospital is 17356  
registered under section 3701.07 of the Revised Code as a 17357

children's hospital and the children's hospital meets all the requirements of division (I)(1)(a) of this section. 17358  
17359

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 17360  
17361

(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. 17362  
17363  
17364  
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17367

(4) "Person subject to a criminal records check" means the following: 17368  
17369

(a) A person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care; 17370  
17371  
17372

(b) A prospective adoptive parent; 17373

(c) A prospective foster caregiver; 17374

(d) A person eighteen years old or older who resides with a prospective foster caregiver or a prospective adoptive parent. 17375  
17376

(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. 17377  
17378  
17379  
17380

(6) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation. 17381  
17382

**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 17383  
17384  
17385  
17386

transferred the case shall retain jurisdiction for purposes of 17387  
making disposition of the child when required under division (B) 17388  
of this section. 17389

(B) If a complaint is filed against a child alleging that the 17390  
child is a delinquent child, if the case is transferred pursuant 17391  
to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of 17392  
the Revised Code, and if the child subsequently is convicted of or 17393  
pleads guilty to an offense in that case, the sentence to be 17394  
imposed or disposition to be made of the child shall be determined 17395  
as follows: 17396

(1) The court in which the child is convicted of or pleads 17397  
guilty to the offense shall determine whether, had a complaint 17398  
been filed in juvenile court alleging that the child was a 17399  
delinquent child for committing an act that would be that offense 17400  
if committed by an adult, division (A) of section 2152.12 of the 17401  
Revised Code would have required mandatory transfer of the case or 17402  
division (B) of that section would have allowed discretionary 17403  
transfer of the case. The court shall not consider the factor 17404  
specified in division (B)(3) of section 2152.12 of the Revised 17405  
Code in making its determination under this division. 17406

(2) If the court in which the child is convicted of or pleads 17407  
guilty to the offense determines under division (B)(1) of this 17408  
section that, had a complaint been filed in juvenile court 17409  
alleging that the child was a delinquent child for committing an 17410  
act that would be that offense if committed by an adult, division 17411  
(A) of section 2152.12 of the Revised Code would not have required 17412  
mandatory transfer of the case, and division (B) of that section 17413  
would not have allowed discretionary transfer of the case, the 17414  
court shall transfer jurisdiction of the case back to the juvenile 17415  
court that initially transferred the case, the court and all other 17416  
agencies that have any record of the conviction of the child or 17417

the child's guilty plea shall expunge the conviction or guilty plea and all records of it, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have never occurred, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have been a delinquent child adjudication of the child, and the juvenile court shall impose one or more traditional juvenile dispositions upon the child under sections 2152.19 and 2152.20 of the Revised Code.

(3) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would not have required mandatory transfer of the case but division (B) of that section would have allowed discretionary transfer of the case, the court shall determine the sentence it believes should be imposed upon the child under Chapter 2929. of the Revised Code, shall impose that sentence upon the child, and shall stay that sentence pending completion of the procedures specified in this division. Upon imposition and staying of the sentence, the court shall transfer jurisdiction of the case back to the juvenile court that initially transferred the case and the juvenile court shall proceed in accordance with this division. In no case may the child waive a right to a hearing of the type described in division (B)(3)(b) of this section, regarding a motion filed as described in that division by the prosecuting attorney in the case. Upon transfer of jurisdiction of the case back to the juvenile court, both of the following apply:

(a) Except as otherwise provided in division (B)(3)(b) of this section, the juvenile court shall impose a serious youthful

offender dispositional sentence upon the child under division 17450  
(D)(1) of section 2152.13 of the Revised Code. In imposing the 17451  
adult portion of that sentence, the juvenile court shall consider 17452  
and give preference to the sentence imposed upon the child by the 17453  
court in which the child was convicted of or pleaded guilty to the 17454  
offense. Upon imposing a serious youthful offender dispositional 17455  
sentence upon the child as described in this division, the 17456  
juvenile court shall notify the court in which the child was 17457  
convicted of or pleaded guilty to the offense, the sentence 17458  
imposed upon the child by that court shall terminate, the court 17459  
and all other agencies that have any record of the conviction of 17460  
the child shall expunge the conviction or guilty plea and all 17461  
records of it, the conviction or guilty plea shall be considered 17462  
and treated for all purposes other than as provided in this 17463  
section to have never occurred, and the conviction or guilty plea 17464  
shall be considered and treated for all purposes other than as 17465  
provided in this section to have been a delinquent child 17466  
adjudication of the child. 17467

(b) Upon the transfer, the prosecuting attorney in the case 17468  
may file a motion in the juvenile court that objects to the 17469  
imposition of a serious youthful offender dispositional sentence 17470  
upon the child and requests that the sentence imposed upon the 17471  
child by the court in which the child was convicted of or pleaded 17472  
guilty to the offense be invoked. Upon the filing of a motion 17473  
under this division, the juvenile court shall hold a hearing to 17474  
determine whether the child is not amenable to care or 17475  
rehabilitation within the juvenile system and whether the safety 17476  
of the community may require that the child be subject solely to 17477  
adult sanctions. If the juvenile court at the hearing finds that 17478  
the child is not amenable to care or rehabilitation within the 17479  
juvenile system or that the safety of the community may require 17480  
that the child be subject solely to adult sanctions, the court 17481  
shall grant the motion. Absent such a finding, the juvenile court 17482

shall deny the motion. In making its decision under this division, 17483  
the juvenile court shall consider the factors listed in division 17484  
(D) of section 2152.12 of the Revised Code as factors indicating 17485  
that the motion should be granted, shall consider the factors 17486  
listed in division (E) of that section as factors indicating that 17487  
the motion should not be granted, and shall consider whether the 17488  
applicable factors listed in division (D) of that section outweigh 17489  
the applicable factors listed in division (E) of that section. 17490

If the juvenile court grants the motion of the prosecuting 17491  
attorney under this division, the juvenile court shall transfer 17492  
jurisdiction of the case back to the court in which the child was 17493  
convicted of or pleaded guilty to the offense, and the sentence 17494  
imposed by that court shall be invoked. If the juvenile court 17495  
denies the motion of the prosecuting attorney under this section, 17496  
the juvenile court shall impose a serious youthful offender 17497  
dispositional sentence upon the child in accordance with division 17498  
(B)(3)(a) of this section. 17499

(4) If the court in which the child is convicted of or pleads 17500  
guilty to the offense determines under division (B)(1) of this 17501  
section that, had a complaint been filed in juvenile court 17502  
alleging that the child was a delinquent child for committing an 17503  
act that would be that offense if committed by an adult, division 17504  
(A) of section 2152.12 of the Revised Code would have required 17505  
mandatory transfer of the case, the court shall impose sentence 17506  
upon the child under Chapter 2929. of the Revised Code. 17507

**Sec. 2152.22.** (A) When a child is committed to the legal 17508  
custody of the department of youth services under this chapter, 17509  
the juvenile court relinquishes control with respect to the child 17510  
so committed, except as provided in divisions (B), (C), (D), and 17511  
(H) of this section or in sections 2152.82 to 2152.86 of the 17512  
Revised Code. Subject to divisions (B), (C), and (D) of this 17513

section, sections 2151.353 and 2151.412 to 2151.421 of the Revised Code, sections 2152.82 to 2152.86 of the Revised Code, and any other provision of law that specifies a different duration for a dispositional order, all other dispositional orders made by the court under this chapter shall be temporary and shall continue for a period that is designated by the court in its order, until terminated or modified by the court or until the child attains twenty-one years of age.

The department shall not release the child from a department facility and as a result shall not discharge the child or order the child's release on supervised release prior to the expiration of the minimum period specified by the court in division (A)(1) of section 2152.16 of the Revised Code and any term of commitment imposed under section 2152.17 of the Revised Code or prior to the child's attainment of twenty-one years of age, except upon the order of a court pursuant to division (B), (C), or (D) of this section or in accordance with section 5139.54 of the Revised Code.

(B)(1) ~~The~~ Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to court supervision under this division during the first half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the first half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (B)(1) of this section, it shall request the court that committed the child to grant a judicial

release of the child to court supervision under this division. 17546  
During whichever of those periods is applicable, the child or the 17547  
parents of the child also may request that court to grant a 17548  
judicial release of the child to court supervision. Upon receipt 17549  
of a request for a judicial release to court supervision under 17550  
this division from the department, the child, or the child's 17551  
parent, or upon its own motion, the court that committed the child 17552  
shall do one of the following: approve the release by journal 17553  
entry; schedule within thirty days after the request is received a 17554  
time for a hearing on whether the child is to be released; or 17555  
reject the request by journal entry without conducting a hearing. 17556

If the court rejects an initial request for a release under 17557  
this division by the child or the child's parent, the child or the 17558  
child's parent may make one additional request for a judicial 17559  
release to court supervision within the applicable period. The 17560  
additional request may be made no earlier than thirty days after 17561  
the filing of the prior request for a judicial release to court 17562  
supervision. Upon the filing of a second request for a judicial 17563  
release to court supervision, the court shall either approve or 17564  
disapprove the release by journal entry or schedule within thirty 17565  
days after the request is received a time for a hearing on whether 17566  
the child is to be released. 17567

(3) If a court schedules a hearing under division (B)(2) of 17568  
this section, it may order the department to deliver the child to 17569  
the court on the date set for the hearing and may order the 17570  
department to present to the court a report on the child's 17571  
progress in the institution to which the child was committed and 17572  
recommendations for conditions of supervision of the child by the 17573  
court after release. The court may conduct the hearing without the 17574  
child being present. The court shall determine at the hearing 17575  
whether the child should be granted a judicial release to court 17576  
supervision. 17577

If the court approves the release under this division, it 17578  
shall order its staff to prepare a written treatment and 17579  
rehabilitation plan for the child that may include any conditions 17580  
of the child's release that were recommended by the department and 17581  
approved by the court. The committing court shall send the 17582  
juvenile court of the county in which the child is placed a copy 17583  
of the recommended plan. The court of the county in which the 17584  
child is placed may adopt the recommended conditions set by the 17585  
committing court as an order of the court and may add any 17586  
additional consistent conditions it considers appropriate. If a 17587  
child is granted a judicial release to court supervision, the 17588  
release discharges the child from the custody of the department of 17589  
youth services. 17590

(C)(1) The Unless the court grants judicial release under 17591  
division (D)(1)(b) of this section, the court that commits a 17592  
delinquent child to the department of youth services may grant 17593  
judicial release of the child to department of youth services 17594  
supervision under this division during the second half of the 17595  
prescribed minimum term for which the child was committed to the 17596  
department or, if the child was committed to the department until 17597  
the child attains twenty-one years of age, during the second half 17598  
of the prescribed period of commitment that begins on the first 17599  
day of commitment and ends on the child's twenty-first birthday, 17600  
provided any commitment imposed under division (A), (B), (C), or 17601  
(D) of section 2152.17 of the Revised Code has ended. 17602

(2) If the department desires to release a child during a 17603  
period specified in division (C)(1) of this section, it shall 17604  
request the court that committed the child to grant a judicial 17605  
release to department of youth services supervision. During 17606  
whichever of those periods is applicable, the child or the child's 17607  
parent also may request the court that committed the child to 17608  
grant a judicial release to department of youth services 17609

supervision. Upon receipt of a request for judicial release to 17610  
department of youth services supervision, the child, or the 17611  
child's parent, or upon its own motion at any time during that 17612  
period, the court shall do one of the following: approve the 17613  
release by journal entry; schedule a time within thirty days after 17614  
receipt of the request for a hearing on whether the child is to be 17615  
released; or reject the request by journal entry without 17616  
conducting a hearing. 17617

If the court rejects an initial request for release under 17618  
this division by the child or the child's parent, the child or the 17619  
child's parent may make one or more subsequent requests for a 17620  
release within the applicable period, but may make no more than 17621  
one request during each period of ninety days that the child is in 17622  
a secure department facility after the filing of a prior request 17623  
for early release. Upon the filing of a request for release under 17624  
this division subsequent to an initial request, the court shall 17625  
either approve or disapprove the release by journal entry or 17626  
schedule a time within thirty days after receipt of the request 17627  
for a hearing on whether the child is to be released. 17628

(3) If a court schedules a hearing under division (C)(2) of 17629  
this section, it may order the department to deliver the child to 17630  
the court on the date set for the hearing and shall order the 17631  
department to present to the court at that time a treatment plan 17632  
for the child's post-institutional care. The court may conduct the 17633  
hearing without the child being present. The court shall determine 17634  
at the hearing whether the child should be granted a judicial 17635  
release to department of youth services supervision. 17636

If the court approves the judicial release to department of 17637  
youth services supervision, the department shall prepare a written 17638  
treatment and rehabilitation plan for the child pursuant to 17639  
division (F) of this section that shall include the conditions of 17640  
the child's release. It shall send the committing court and the 17641

juvenile court of the county in which the child is placed a copy 17642  
of the plan. The court of the county in which the child is placed 17643  
may adopt the conditions set by the department as an order of the 17644  
court and may add any additional consistent conditions it 17645  
considers appropriate, provided that the court may not add any 17646  
condition that decreases the level or degree of supervision 17647  
specified by the department in its plan, that substantially 17648  
increases the financial burden of supervision that will be 17649  
experienced by the department, or that alters the placement 17650  
specified by the department in its plan. If the court of the 17651  
county in which the child is placed adds to the department's plan 17652  
any additional conditions, it shall enter those additional 17653  
conditions in its journal and shall send to the department a copy 17654  
of the journal entry of the additional conditions. 17655

If the court approves the judicial release to department of 17656  
youth services supervision, the actual date on which the 17657  
department shall release the child is contingent upon the 17658  
department finding a suitable placement for the child. If the 17659  
child is to be returned to the child's home, the department shall 17660  
return the child on the date that the court schedules for the 17661  
child's release or shall bear the expense of any additional time 17662  
that the child remains in a department facility. If the child is 17663  
unable to return to the child's home, the department shall 17664  
exercise reasonable diligence in finding a suitable placement for 17665  
the child, and the child shall remain in a department facility 17666  
while the department finds the suitable placement. 17667

(D)(1) Subject to division (D)(3) of this section, the court 17668  
that commits a delinquent child to the department of youth 17669  
services may grant judicial release of the child under this 17670  
division at any time after the expiration of one of the following 17671  
periods of time: 17672

(a) Except as otherwise provided in division (D)(1)(b) of 17673

this section, if the child was committed to the department for a 17674  
prescribed minimum period and a maximum period not to exceed the 17675  
child's attainment of twenty-one years, the court may grant 17676  
judicial release of the child at any time after the expiration of 17677  
the prescribed minimum term for which the child was committed to 17678  
the department. 17679

(b) If the child was committed to the department for both one 17680  
or more definite periods under division (A), (B), (C), or (D) of 17681  
section 2152.17 of the Revised Code and a period of the type 17682  
described in division (D)(1)(a) of this section, all of the 17683  
prescribed minimum periods of commitment imposed under division 17684  
(A), (B), (C), or (D) of section 2152.17 of the Revised Code and 17685  
the prescribed period of commitment of the type described in 17686  
division (D)(1)(a) of this section shall be aggregated for 17687  
purposes of this division, and the court may grant judicial 17688  
release of the child at any time after the expiration of one year 17689  
after the child begins serving the aggregate period of commitment. 17690

(2) If a court grants a judicial release of a child under 17691  
division (D)(1) of this section, the release shall be a judicial 17692  
release to department of youth services supervision, if the 17693  
release is granted during a period described in division (C)(1) of 17694  
this section, and the second and third paragraphs of division 17695  
(C)(3) of this section apply regarding the release. In all other 17696  
cases, the release shall be a judicial release to court 17697  
supervision, and the second paragraph of division (B)(3) of this 17698  
section applies regarding the release. 17699

(3) A court at the time of making the disposition of a child 17700  
shall provide notice in the order of disposition that the judge is 17701  
retaining jurisdiction over the child for the purpose of a 17702  
possible grant of judicial release of the child under division 17703  
(D)(1) of this section. The failure of a court to provide this 17704  
notice does not affect the authority of the court to grant a 17705

judicial release under that division and does not constitute 17706  
grounds for setting aside the child's delinquent child 17707  
adjudication or disposition or for granting any post-adjudication 17708  
relief to the child. 17709

(4) The department of youth services, a child committed to 17710  
the department, or the parents of the child, during a period 17711  
specified in division (D)(1) of this section, may request the 17712  
court that committed the child to grant a judicial release of the 17713  
child under that division. Upon receipt of a request for judicial 17714  
release of a child under this division from the department, the 17715  
child, or the child's parent, or upon its own motion, the court 17716  
that committed the child shall do one of the following: 17717

(a) Approve the request by journal entry; 17718

(b) Schedule within thirty days after the request is received 17719  
a time for a hearing on whether the child is to be released; 17720

(c) Reject the request by journal entry without conducting a 17721  
hearing. 17722

If the court rejects an initial request for a release under 17723  
this division by the child or the child's parent, division (C)(2) 17724  
of this section applies regarding the making of additional 17725  
requests. 17726

If the court schedules a hearing under this division to 17727  
consider the judicial release, the first paragraph of division 17728  
(B)(3) of this section applies regarding the hearing. 17729

(E) If a child is released under division (B), (C), or (D) of 17730  
this section and the court of the county in which the child is 17731  
placed has reason to believe that the child's department is not in 17732  
accordance with the conditions of the child's judicial release, 17733  
the court of the county in which the child is placed shall 17734  
schedule a time for a hearing to determine whether the child 17735  
violated any of the post-release conditions, and, if the child was 17736

released under division (C) of this section or under division (D) 17737  
of this section under department supervision, divisions (A) to (E) 17738  
of section 5139.52 of the Revised Code apply regarding the child. 17739

If that court determines at the hearing that the child 17740  
violated any of the post-release conditions, the court, if it 17741  
determines that the violation was a serious violation, may order 17742  
the child to be returned to the department for 17743  
institutionalization, consistent with the original order of 17744  
commitment of the child, or in any case may make any other 17745  
disposition of the child authorized by law that the court 17746  
considers proper. If the court of the county in which the child is 17747  
placed orders the child to be returned to a department of youth 17748  
services institution, the time during which the child was held in 17749  
a secure department facility prior to the child's judicial release 17750  
shall be considered as time served in fulfilling the prescribed 17751  
period of institutionalization that is applicable to the child 17752  
under the child's original order of commitment. If the court 17753  
orders the child returned to a department institution, the child 17754  
shall remain in institutional care for a minimum of three months 17755  
or until the child successfully completes a revocation program of 17756  
a duration of not less than thirty days operated either by the 17757  
department or by an entity with which the department has 17758  
contracted to provide a revocation program. 17759

(F) The department of youth services, prior to the release of 17760  
a child pursuant to division (C) of this section or pursuant to 17761  
division (D) of this section on department supervision, shall do 17762  
all of the following: 17763

(1) After reviewing the child's rehabilitative progress 17764  
history and medical and educational records, prepare a written 17765  
treatment and rehabilitation plan for the child that includes 17766  
conditions of the release; 17767

(2) Completely discuss the conditions of the plan prepared 17768

pursuant to division (F)(1) of this section and the possible 17769  
penalties for violation of the plan with the child and the child's 17770  
parents, guardian, or legal custodian; 17771

(3) Have the plan prepared pursuant to division (F)(1) of 17772  
this section signed by the child, the child's parents, legal 17773  
guardian, or custodian, and any authority or person that is to 17774  
supervise, control, and provide supportive assistance to the child 17775  
at the time of the child's release pursuant to division (C) or (D) 17776  
of this section; 17777

(4) Prior to the child's release, file a copy of the 17778  
treatment plan prepared pursuant to division (F)(1) of this 17779  
section with the committing court and the juvenile court of the 17780  
county in which the child is to be placed. 17781

(G) The department of youth services shall file a written 17782  
progress report with the committing court regarding each child 17783  
released pursuant to division (C) of this section or released 17784  
pursuant to division (D) of this section on judicial release to 17785  
department supervision at least once every thirty days unless 17786  
specifically directed otherwise by the court. The report shall 17787  
indicate the treatment and rehabilitative progress of the child 17788  
and the child's family, if applicable, and shall include any 17789  
suggestions for altering the program, custody, living 17790  
arrangements, or treatment. The department shall retain legal 17791  
custody of a child so released until it discharges the child or 17792  
until the custody is terminated as otherwise provided by law. 17793

(H) When a child is committed to the legal custody of the 17794  
department of youth services, the court retains jurisdiction to 17795  
perform the functions specified in section 5139.51 of the Revised 17796  
Code with respect to the granting of supervised release by the 17797  
release authority and to perform the functions specified in 17798  
section 5139.52 of the Revised Code with respect to violations of 17799  
the conditions of supervised release granted by the release 17800

authority and to the revocation of supervised release granted by 17801  
the release authority. 17802

**Sec. 2301.01.** There shall be a court of common pleas in each 17803  
county held by one or more judges, each of whom has been admitted 17804  
to practice as an attorney at law in this state and has, for a 17805  
total of at least six years preceding the judge's appointment or 17806  
commencement of the judge's term, engaged in the practice of law 17807  
in this state or served as a judge of a court of record in any 17808  
jurisdiction in the United States, or both, resides in the county, 17809  
and is elected by the electors therein. ~~At least two of the years~~ 17810  
~~of practice or service that qualify a judge shall have been in~~ 17811  
~~this state.~~ Each judge shall be elected for six years at the 17812  
general election immediately preceding the year in which the term, 17813  
as provided in sections 2301.02 and 2301.03 of the Revised Code, 17814  
commences, and the judge's successor shall be elected at the 17815  
general election immediately preceding the expiration of that 17816  
term. 17817

**Sec. 2301.27.** (A)(1)(a) The court of common pleas may 17818  
establish a county department of probation. The establishment of 17819  
the department shall be entered upon the journal of the court, and 17820  
the clerk of the court of common pleas shall certify a copy of the 17821  
journal entry establishing the department to each elective officer 17822  
and board of the county. The department shall consist of a chief 17823  
probation officer and the number of other probation officers and 17824  
employees, clerks, and stenographers that is fixed from time to 17825  
time by the court. The court shall appoint those individuals, fix 17826  
their salaries, and supervise their work. 17827

(b) When appointing a chief probation officer, the court 17828  
shall do all of the following: 17829

(i) Publicly advertise the position on the court's web site, 17830

including, but not limited to, the job description, qualifications 17831  
for the position, and the application requirements; 17832

(ii) Conduct a competitive hiring process that adheres to 17833  
state and federal equal employment opportunity laws; 17834

(iii) Review applicants who meet the posted qualifications 17835  
and comply with the application requirements. 17836

(c) The court shall not appoint as a probation officer any 17837  
person who does not possess the training, experience, and other 17838  
qualifications prescribed by the adult parole authority created by 17839  
section 5149.02 of the Revised Code. Probation officers have all 17840  
the powers of regular police officers and shall perform any duties 17841  
that are designated by the judge or judges of the court. All 17842  
positions within the department of probation shall be in the 17843  
classified service of the civil service of the county. 17844

(2) If two or more counties desire to jointly establish a 17845  
probation department for those counties, the judges of the courts 17846  
of common pleas of those counties may establish a probation 17847  
department for those counties. If a probation department is 17848  
established pursuant to division (A)(2) of this section to serve 17849  
more than one county, the judges of the courts of common pleas 17850  
that established the department shall designate the county 17851  
treasurer of one of the counties served by the department as the 17852  
treasurer to whom probation fees paid under section 2951.021 of 17853  
the Revised Code are to be appropriated and transferred under 17854  
division (A)(2) of section 321.44 of the Revised Code for deposit 17855  
into the multicounty probation services fund established under 17856  
division (B) of section 321.44 of the Revised Code. 17857

The cost of the administration and operation of a probation 17858  
department established for two or more counties shall be prorated 17859  
to the respective counties on the basis of population. 17860

(3) Probation officers shall receive, in addition to their 17861

respective salaries, their necessary and reasonable travel and 17862  
other expenses incurred in the performance of their duties. Their 17863  
salaries and expenses shall be paid monthly from the county 17864  
treasury in the manner provided for the payment of the 17865  
compensation of other appointees of the court. 17866

(4) ~~Probation~~ Adult probation officers shall be trained in 17867  
accordance with a set of minimum standards that are established by 17868  
the adult parole authority of the department of rehabilitation and 17869  
correction. 17870

(B)(1) In lieu of establishing a county department of 17871  
probation under division (A) of this section and in lieu of 17872  
entering into an agreement with the adult parole authority as 17873  
described in division (B) of section 2301.32 of the Revised Code, 17874  
the court of common pleas may request the board of county 17875  
commissioners to contract with, and upon that request the board 17876  
may contract with, any nonprofit, public or private agency, 17877  
association, or organization for the provision of probation 17878  
services and supervisory services for persons placed under 17879  
community control sanctions. The contract shall specify that each 17880  
individual providing the probation services and supervisory 17881  
services shall possess the training, experience, and other 17882  
qualifications prescribed by the adult parole authority. The 17883  
individuals who provide the probation services and supervisory 17884  
services shall not be included in the classified or unclassified 17885  
civil service of the county. 17886

(2) In lieu of establishing a county department of probation 17887  
under division (A) of this section and in lieu of entering into an 17888  
agreement with the adult parole authority as described in division 17889  
(B) of section 2301.32 of the Revised Code, the courts of common 17890  
pleas of two or more adjoining counties jointly may request the 17891  
boards of county commissioners of those counties to contract with, 17892  
and upon that request the boards of county commissioners of two or 17893

more adjoining counties jointly may contract with, any nonprofit, 17894  
public or private agency, association, or organization for the 17895  
provision of probation services and supervisory services for 17896  
persons placed under community control sanctions for those 17897  
counties. The contract shall specify that each individual 17898  
providing the probation services and supervisory services shall 17899  
possess the training, experience, and other qualifications 17900  
prescribed by the adult parole authority. The individuals who 17901  
provide the probation services and supervisory services shall not 17902  
be included in the classified or unclassified civil service of any 17903  
of those counties. 17904

(C) The chief probation officer may grant permission to a 17905  
probation officer to carry firearms when required in the discharge 17906  
of official duties if the probation officer has successfully 17907  
completed a basic firearm training program that is approved by the 17908  
executive director of the Ohio peace officer training commission. 17909  
A probation officer who has been granted permission to carry a 17910  
firearm in the discharge of official duties, annually shall 17911  
successfully complete a firearms requalification program in 17912  
accordance with section 109.801 of the Revised Code. 17913

(D) As used in this section and sections 2301.28 to 2301.32 17914  
of the Revised Code, "community control sanction" has the same 17915  
meaning as in section 2929.01 of the Revised Code. 17916

**Sec. 2301.271.** (A) The adult parole authority of the 17917  
department of rehabilitation and correction shall develop minimum 17918  
standards for the training of adult probation officers as provided 17919  
by section 2301.27 of the Revised Code. The adult parole authority 17920  
shall consult and collaborate with the supreme court in developing 17921  
the standards. 17922

(B) Within six months after ~~the effective date of this~~ 17923  
~~section~~ September 30, 2011, the department of rehabilitation and 17924

correction shall make available a copy of the minimum standards to 17925  
the following entities: 17926

(1) Every municipal court, county court, and court of common 17927  
pleas; 17928

(2) Every probation department. 17929

**Sec. 2301.571.** (A) A person who has been convicted of or 17930  
pleaded guilty to an offense and who is confined in a 17931  
community-based correctional facility or district community-based 17932  
correctional facility, ~~unless indigent,~~ is financially responsible 17933  
for the payment of any medical expense or service requested by and 17934  
provided to that person. 17935

(B) ~~Notwithstanding any contrary provision of section 2929.38~~ 17936  
~~of the Revised Code, the facility governing board of a~~ 17937  
~~community based correctional facility or district community based~~ 17938  
~~correctional facility shall establish a policy that requires any~~ 17939  
~~person who is not indigent and who is confined in the correctional~~ 17940  
~~facility to pay for any medical treatment or service requested by~~ 17941  
~~and provided to that person. The fee for the medical treatment or~~ 17942  
~~service shall not exceed the actual cost of the treatment or~~ 17943  
~~service provided.~~ No person confined in a community-based 17944  
correctional facility or district community-based correctional 17945  
facility shall be denied any necessary medical care because of 17946  
inability to pay for medical treatment or service. 17947

(C) ~~Any fee paid by a person under~~ Nothing in this section 17948  
~~shall be deducted from~~ cause a community-based correctional 17949  
facility or district community-based correctional facility to be 17950  
responsible for the payment of any medical or dental costs that 17951  
~~the person is ordered to reimburse under a financial sanction~~ 17952  
~~imposed pursuant to section 2929.28 of the Revised Code or to~~ 17953  
~~repay under a policy adopted under~~ other health care expenses 17954  
incurred in connection with an offender who is serving a term in 17955

the facility pursuant to section ~~2929.37~~ 2929.16 of the Revised Code. 17956  
17957

**Sec. 2305.01.** Except as otherwise provided by this section or 17958  
section 2305.03 of the Revised Code, the court of common pleas has 17959  
original jurisdiction in all civil cases in which the sum or 17960  
matter in dispute exceeds the exclusive original jurisdiction of 17961  
county courts and appellate jurisdiction from the decisions of 17962  
boards of county commissioners. The court of common pleas shall 17963  
not have jurisdiction, in any tort action to which the amounts 17964  
apply, to award punitive or exemplary damages that exceed the 17965  
amounts set forth in section 2315.21 of the Revised Code. The 17966  
court of common pleas shall not have jurisdiction in any tort 17967  
action to which the limits apply to enter judgment on an award of 17968  
compensatory damages for noneconomic loss in excess of the limits 17969  
set forth in section 2315.18 of the Revised Code. 17970

The court of common pleas may on its own motion transfer for 17971  
trial any action in the court to any municipal court in the county 17972  
having concurrent jurisdiction of the subject matter of, and the 17973  
parties to, the action, if the amount sought by the plaintiff does 17974  
not exceed one thousand dollars and if the judge or presiding 17975  
judge of the municipal court concurs in the proposed transfer. 17976  
Upon the issuance of an order of transfer, the clerk of courts 17977  
shall remove to the designated municipal court the entire case 17978  
file. Any untaxed portion of the common pleas deposit for court 17979  
costs shall be remitted to the municipal court by the clerk of 17980  
courts to be applied in accordance with section 1901.26 of the 17981  
Revised Code, and the costs taxed by the municipal court shall be 17982  
added to any costs taxed in the common pleas court. 17983

The court of common pleas has jurisdiction in any action 17984  
brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the 17985  
Revised Code if the residential premises that are the subject of 17986

the action are located within the territorial jurisdiction of the 17987  
court. 17988

The courts of common pleas of Adams, Athens, Belmont, Brown, 17989  
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 17990  
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 17991  
beyond the north or northwest shore of the Ohio river extending to 17992  
the opposite shore line, between the extended boundary lines of 17993  
any adjacent counties or adjacent state. Each of those courts of 17994  
common pleas has concurrent jurisdiction on the Ohio river with 17995  
any adjacent court of common pleas that borders on that river and 17996  
with any court of Kentucky or of West Virginia that borders on the 17997  
Ohio river and that has jurisdiction on the Ohio river under the 17998  
law of Kentucky or the law of West Virginia, whichever is 17999  
applicable, or under federal law. 18000

**Sec. 2307.89.** The following apply to all tort actions for 18001  
silicosis or mixed dust disease claims brought against a premises 18002  
owner to recover damages or other relief for exposure to silica or 18003  
mixed dust on the premises owner's property: 18004

(A) A premises owner is not liable for any injury to any 18005  
individual resulting from silica or mixed dust exposure unless 18006  
that individual's alleged exposure occurred while the individual 18007  
was at the premises owner's property. 18008

(B) If exposure to silica or mixed dust is alleged to have 18009  
occurred before January 1, 1972, it is presumed that a premises 18010  
owner knew that this state had adopted safe levels of exposure for 18011  
silica or mixed dust and that products containing silica or mixed 18012  
dust were used on its property only at levels below those safe 18013  
levels of exposure. To rebut this presumption, the plaintiff must 18014  
prove by a preponderance of the evidence that the premises owner 18015  
knew or should have known that the levels of silica or mixed dust 18016  
in the immediate breathing zone of the plaintiff regularly 18017

exceeded the threshold limit values adopted by this state and that 18018  
the premises owner allowed that condition to persist. 18019

(C)(1) A premises owner is presumed to be not liable for any 18020  
injury to any invitee who was engaged to work with, install, or 18021  
remove products containing silica or mixed dust on the premises 18022  
owner's property if the invitee's employer held itself out as 18023  
qualified to perform the work. To rebut this presumption, the 18024  
plaintiff must demonstrate by a preponderance of the evidence that 18025  
the premises owner had actual knowledge of the potential dangers 18026  
of the products containing silica or mixed dust at the time of the 18027  
alleged exposure that was superior to the knowledge of both the 18028  
invitee and the invitee's employer. 18029

(2) A premises owner that hired a contractor before January 18030  
1, 1972, to perform the type of work at the premises owner's 18031  
property that the contractor was qualified to perform cannot be 18032  
liable for any injury to any individual resulting from silica or 18033  
mixed dust exposure caused by any of the contractor's employees or 18034  
agents on the premises owner's property unless the premises owner 18035  
directed the activity that resulted in the injury or gave or 18036  
denied permission for the critical acts that led to the 18037  
individual's injury. 18038

(3) If exposure to silica or mixed dust is alleged to have 18039  
occurred after January 1, 1972, a premises owner is not liable for 18040  
any injury to any individual resulting from that exposure caused 18041  
by a contractor's employee or agent on the premises owner's 18042  
property unless the plaintiff establishes the premises owner's 18043  
intentional violation of an established safety standard that was 18044  
in effect at the time of the exposure and that the alleged 18045  
violation was in the plaintiff's breathing zone and was the 18046  
proximate cause of the plaintiff's medical condition. 18047

(D) As used in this section: 18048

(1) "Threshold limit values" means the maximum allowable concentration of silica, or other dust, set forth in regulation 247 of the "regulations for the prevention and control of diseases resulting from exposure to toxic fumes, vapors, mists, gases, and dusts in order to preserve and protect the public health," as adopted by the former public health council of the department of health on January 1, 1947, and set forth by the industrial commission of Ohio in bulletin no. 203, "specific requirements and general safety standards of the industrial commission of Ohio for work shops and factories, chapter XV, ventilation and exhausts," effective January 3, 1955.

(2) "Established safety standard" means that, for the years after 1971, the concentration of silica or mixed dust in the breathing zone of the worker does not exceed the maximum allowable exposure limits for the eight-hour time-weighted average airborne concentration as promulgated by the occupational safety and health administration (OSHA) in effect at the time of the alleged exposure.

(3) "Employee" means an individual who performs labor or provides construction services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, or a remodeling or repair contract, whether written or oral, if at least ten of the following criteria apply:

(a) The individual is required to comply with instructions from the other contracting party regarding the manner or method of performing services.

(b) The individual is required by the other contracting party to have particular training.

(c) The individual's services are integrated into the regular functioning of the other contracting party.

(d) The individual is required to perform the work

|   |                         |
|---|-------------------------|
| personally.   | 18080                   |
| (e) The individual is hired, supervised, or paid by the other contracting party.  | 18081<br>18082          |
| (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. | 18083<br>18084<br>18085 |
| (g) The individual's hours of work are established by the other contracting party.  | 18086<br>18087          |
| (h) The individual is required to devote full time to the business of the other contracting party.  | 18088<br>18089          |
| (i) The individual is required to perform the work on the premises of the other contracting party.  | 18090<br>18091          |
| (j) The individual is required to follow the order of work set by the other contracting party.  | 18092<br>18093          |
| (k) The individual is required to make oral or written reports of progress to the other contracting party.  | 18094<br>18095          |
| (l) The individual is paid for services on a regular basis, including hourly, weekly, or monthly.   | 18096<br>18097          |
| (m) The individual's expenses are paid for by the other contracting party.  | 18098<br>18099          |
| (n) The individual's tools and materials are furnished by the other contracting party.  | 18100<br>18101          |
| (o) The individual is provided with the facilities used to perform services.  | 18102<br>18103          |
| (p) The individual does not realize a profit or suffer a loss as a result of the services provided.   | 18104<br>18105          |
| (q) The individual is not performing services for a number of employers at the same time.   | 18106<br>18107          |
| (r) The individual does not make the same services available  | 18108                   |

to the general public. 181109

(s) The other contracting party has a right to discharge the 181110  
individual. 181111

(t) The individual has the right to end the relationship with 181112  
the other contracting party without incurring liability pursuant 181113  
to an employment contract or agreement. 181114

**Sec. 2317.02.** The following persons shall not testify in 181115  
certain respects: 181116

(A)(1) An attorney, concerning a communication made to the 181117  
attorney by a client in that relation or the attorney's advice to 181118  
a client, except that the attorney may testify by express consent 181119  
of the client or, if the client is deceased, by the express 181120  
consent of the surviving spouse or the executor or administrator 181121  
of the estate of the deceased client. However, if the client 181122  
voluntarily testifies or is deemed by section 2151.421 of the 181123  
Revised Code to have waived any testimonial privilege under this 181124  
division, the attorney may be compelled to testify on the same 181125  
subject. 181126

The testimonial privilege established under this division 181127  
does not apply concerning a communication between a client who has 181128  
since died and the deceased client's attorney if the communication 181129  
is relevant to a dispute between parties who claim through that 181130  
deceased client, regardless of whether the claims are by testate 181131  
or intestate succession or by inter vivos transaction, and the 181132  
dispute addresses the competency of the deceased client when the 181133  
deceased client executed a document that is the basis of the 181134  
dispute or whether the deceased client was a victim of fraud, 181135  
undue influence, or duress when the deceased client executed a 181136  
document that is the basis of the dispute. 181137

(2) An attorney, concerning a communication made to the 181138

attorney by a client in that relationship or the attorney's advice 18139  
to a client, except that if the client is an insurance company, 18140  
the attorney may be compelled to testify, subject to an in camera 18141  
inspection by a court, about communications made by the client to 18142  
the attorney or by the attorney to the client that are related to 18143  
the attorney's aiding or furthering an ongoing or future 18144  
commission of bad faith by the client, if the party seeking 18145  
disclosure of the communications has made a prima\_facie showing of 18146  
bad faith, fraud, or criminal misconduct by the client. 18147

(B)(1) A physician or a dentist concerning a communication 18148  
made to the physician or dentist by a patient in that relation or 18149  
the physician's or dentist's advice to a patient, except as 18150  
otherwise provided in this division, division (B)(2), and division 18151  
(B)(3) of this section, and except that, if the patient is deemed 18152  
by section 2151.421 of the Revised Code to have waived any 18153  
testimonial privilege under this division, the physician may be 18154  
compelled to testify on the same subject. 18155

The testimonial privilege established under this division 18156  
does not apply, and a physician or dentist may testify or may be 18157  
compelled to testify, in any of the following circumstances: 18158

(a) In any civil action, in accordance with the discovery 18159  
provisions of the Rules of Civil Procedure in connection with a 18160  
civil action, or in connection with a claim under Chapter 4123. of 18161  
the Revised Code, under any of the following circumstances: 18162

(i) If the patient or the guardian or other legal 18163  
representative of the patient gives express consent; 18164

(ii) If the patient is deceased, the spouse of the patient or 18165  
the executor or administrator of the patient's estate gives 18166  
express consent; 18167

(iii) If a medical claim, dental claim, chiropractic claim, 18168  
or optometric claim, as defined in section 2305.113 of the Revised 18169

Code, an action for wrongful death, any other type of civil 18170  
action, or a claim under Chapter 4123. of the Revised Code is 18171  
filed by the patient, the personal representative of the estate of 18172  
the patient if deceased, or the patient's guardian or other legal 18173  
representative. 18174

(b) In any civil action concerning court-ordered treatment or 18175  
services received by a patient, if the court-ordered treatment or 18176  
services were ordered as part of a case plan journalized under 18177  
section 2151.412 of the Revised Code or the court-ordered 18178  
treatment or services are necessary or relevant to dependency, 18179  
neglect, or abuse or temporary or permanent custody proceedings 18180  
under Chapter 2151. of the Revised Code. 18181

(c) In any criminal action concerning any test or the results 18182  
of any test that determines the presence or concentration of 18183  
alcohol, a drug of abuse, a combination of them, a controlled 18184  
substance, or a metabolite of a controlled substance in the 18185  
patient's whole blood, blood serum or plasma, breath, urine, or 18186  
other bodily substance at any time relevant to the criminal 18187  
offense in question. 18188

(d) In any criminal action against a physician or dentist. In 18189  
such an action, the testimonial privilege established under this 18190  
division does not prohibit the admission into evidence, in 18191  
accordance with the Rules of Evidence, of a patient's medical or 18192  
dental records or other communications between a patient and the 18193  
physician or dentist that are related to the action and obtained 18194  
by subpoena, search warrant, or other lawful means. A court that 18195  
permits or compels a physician or dentist to testify in such an 18196  
action or permits the introduction into evidence of patient 18197  
records or other communications in such an action shall require 18198  
that appropriate measures be taken to ensure that the 18199  
confidentiality of any patient named or otherwise identified in 18200  
the records is maintained. Measures to ensure confidentiality that 18201

may be taken by the court include sealing its records or deleting 18202  
specific information from its records. 18203

(e)(i) If the communication was between a patient who has 18204  
since died and the deceased patient's physician or dentist, the 18205  
communication is relevant to a dispute between parties who claim 18206  
through that deceased patient, regardless of whether the claims 18207  
are by testate or intestate succession or by inter vivos 18208  
transaction, and the dispute addresses the competency of the 18209  
deceased patient when the deceased patient executed a document 18210  
that is the basis of the dispute or whether the deceased patient 18211  
was a victim of fraud, undue influence, or duress when the 18212  
deceased patient executed a document that is the basis of the 18213  
dispute. 18214

(ii) If neither the spouse of a patient nor the executor or 18215  
administrator of that patient's estate gives consent under 18216  
division (B)(1)(a)(ii) of this section, testimony or the 18217  
disclosure of the patient's medical records by a physician, 18218  
dentist, or other health care provider under division (B)(1)(e)(i) 18219  
of this section is a permitted use or disclosure of protected 18220  
health information, as defined in 45 C.F.R. 160.103, and an 18221  
authorization or opportunity to be heard shall not be required. 18222

(iii) Division (B)(1)(e)(i) of this section does not require 18223  
a mental health professional to disclose psychotherapy notes, as 18224  
defined in 45 C.F.R. 164.501. 18225

(iv) An interested person who objects to testimony or 18226  
disclosure under division (B)(1)(e)(i) of this section may seek a 18227  
protective order pursuant to Civil Rule 26. 18228

(v) A person to whom protected health information is 18229  
disclosed under division (B)(1)(e)(i) of this section shall not 18230  
use or disclose the protected health information for any purpose 18231  
other than the litigation or proceeding for which the information 18232

was requested and shall return the protected health information to 18233  
the covered entity or destroy the protected health information, 18234  
including all copies made, at the conclusion of the litigation or 18235  
proceeding. 18236

(2)(a) If any law enforcement officer submits a written 18237  
statement to a health care provider that states that an official 18238  
criminal investigation has begun regarding a specified person or 18239  
that a criminal action or proceeding has been commenced against a 18240  
specified person, that requests the provider to supply to the 18241  
officer copies of any records the provider possesses that pertain 18242  
to any test or the results of any test administered to the 18243  
specified person to determine the presence or concentration of 18244  
alcohol, a drug of abuse, a combination of them, a controlled 18245  
substance, or a metabolite of a controlled substance in the 18246  
person's whole blood, blood serum or plasma, breath, or urine at 18247  
any time relevant to the criminal offense in question, and that 18248  
conforms to section 2317.022 of the Revised Code, the provider, 18249  
except to the extent specifically prohibited by any law of this 18250  
state or of the United States, shall supply to the officer a copy 18251  
of any of the requested records the provider possesses. If the 18252  
health care provider does not possess any of the requested 18253  
records, the provider shall give the officer a written statement 18254  
that indicates that the provider does not possess any of the 18255  
requested records. 18256

(b) If a health care provider possesses any records of the 18257  
type described in division (B)(2)(a) of this section regarding the 18258  
person in question at any time relevant to the criminal offense in 18259  
question, in lieu of personally testifying as to the results of 18260  
the test in question, the custodian of the records may submit a 18261  
certified copy of the records, and, upon its submission, the 18262  
certified copy is qualified as authentic evidence and may be 18263  
admitted as evidence in accordance with the Rules of Evidence. 18264

Division (A) of section 2317.422 of the Revised Code does not 18265  
apply to any certified copy of records submitted in accordance 18266  
with this division. Nothing in this division shall be construed to 18267  
limit the right of any party to call as a witness the person who 18268  
administered the test to which the records pertain, the person 18269  
under whose supervision the test was administered, the custodian 18270  
of the records, the person who made the records, or the person 18271  
under whose supervision the records were made. 18272

(3)(a) If the testimonial privilege described in division 18273  
(B)(1) of this section does not apply as provided in division 18274  
(B)(1)(a)(iii) of this section, a physician or dentist may be 18275  
compelled to testify or to submit to discovery under the Rules of 18276  
Civil Procedure only as to a communication made to the physician 18277  
or dentist by the patient in question in that relation, or the 18278  
physician's or dentist's advice to the patient in question, that 18279  
related causally or historically to physical or mental injuries 18280  
that are relevant to issues in the medical claim, dental claim, 18281  
chiropractic claim, or optometric claim, action for wrongful 18282  
death, other civil action, or claim under Chapter 4123. of the 18283  
Revised Code. 18284

(b) If the testimonial privilege described in division (B)(1) 18285  
of this section does not apply to a physician or dentist as 18286  
provided in division (B)(1)(c) of this section, the physician or 18287  
dentist, in lieu of personally testifying as to the results of the 18288  
test in question, may submit a certified copy of those results, 18289  
and, upon its submission, the certified copy is qualified as 18290  
authentic evidence and may be admitted as evidence in accordance 18291  
with the Rules of Evidence. Division (A) of section 2317.422 of 18292  
the Revised Code does not apply to any certified copy of results 18293  
submitted in accordance with this division. Nothing in this 18294  
division shall be construed to limit the right of any party to 18295  
call as a witness the person who administered the test in 18296

question, the person under whose supervision the test was 18297  
administered, the custodian of the results of the test, the person 18298  
who compiled the results, or the person under whose supervision 18299  
the results were compiled. 18300

(4) The testimonial privilege described in division (B)(1) of 18301  
this section is not waived when a communication is made by a 18302  
physician to a pharmacist or when there is communication between a 18303  
patient and a pharmacist in furtherance of the physician-patient 18304  
relation. 18305

(5)(a) As used in divisions (B)(1) to (4) of this section, 18306  
"communication" means acquiring, recording, or transmitting any 18307  
information, in any manner, concerning any facts, opinions, or 18308  
statements necessary to enable a physician or dentist to diagnose, 18309  
treat, prescribe, or act for a patient. A "communication" may 18310  
include, but is not limited to, any medical or dental, office, or 18311  
hospital communication such as a record, chart, letter, 18312  
memorandum, laboratory test and results, x-ray, photograph, 18313  
financial statement, diagnosis, or prognosis. 18314

(b) As used in division (B)(2) of this section, "health care 18315  
provider" means a hospital, ambulatory care facility, long-term 18316  
care facility, pharmacy, emergency facility, or health care 18317  
practitioner. 18318

(c) As used in division (B)(5)(b) of this section: 18319

(i) "Ambulatory care facility" means a facility that provides 18320  
medical, diagnostic, or surgical treatment to patients who do not 18321  
require hospitalization, including a dialysis center, ambulatory 18322  
surgical facility, cardiac catheterization facility, diagnostic 18323  
imaging center, extracorporeal shock wave lithotripsy center, home 18324  
health agency, inpatient hospice, birthing center, radiation 18325  
therapy center, emergency facility, and an urgent care center. 18326  
"Ambulatory health care facility" does not include the private 18327

office of a physician or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "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 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; 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 "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section

affects, or shall be construed as affecting, the immunity from 18358  
civil liability conferred by section 307.628 of the Revised Code 18359  
or the immunity from civil liability conferred by section 2305.33 18360  
of the Revised Code upon physicians who report an employee's use 18361  
of a drug of abuse, or a condition of an employee other than one 18362  
involving the use of a drug of abuse, to the employer of the 18363  
employee in accordance with division (B) of that section. As used 18364  
in division (B)(7) of this section, "employee," "employer," and 18365  
"physician" have the same meanings as in section 2305.33 of the 18366  
Revised Code. 18367

(C)(1) A cleric, when the cleric remains accountable to the 18368  
authority of that cleric's church, denomination, or sect, 18369  
concerning a confession made, or any information confidentially 18370  
communicated, to the cleric for a religious counseling purpose in 18371  
the cleric's professional character. The cleric may testify by 18372  
express consent of the person making the communication, except 18373  
when the disclosure of the information is in violation of a sacred 18374  
trust and except that, if the person voluntarily testifies or is 18375  
deemed by division (A)(4)(c) of section 2151.421 of the Revised 18376  
Code to have waived any testimonial privilege under this division, 18377  
the cleric may be compelled to testify on the same subject except 18378  
when disclosure of the information is in violation of a sacred 18379  
trust. 18380

(2) As used in division (C) of this section: 18381

(a) "Cleric" means a member of the clergy, rabbi, priest, 18382  
Christian Science practitioner, or regularly ordained, accredited, 18383  
or licensed minister of an established and legally cognizable 18384  
church, denomination, or sect. 18385

(b) "Sacred trust" means a confession or confidential 18386  
communication made to a cleric in the cleric's ecclesiastical 18387  
capacity in the course of discipline enjoined by the church to 18388  
which the cleric belongs, including, but not limited to, the 18389

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| Catholic Church, if both of the following apply:   | 18390   |
| (i) The confession or confidential communication was made directly to the cleric.  | 18391<br>18392  |
| (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.   | 18393<br>18394<br>18395<br>18396  |
| (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;  | 18397<br>18398<br>18399<br>18400<br>18401<br>18402                            |
| (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;   | 18403<br>18404<br>18405   |
| (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.   | 18406<br>18407<br>18408<br>18409<br>18410<br>18411                            |
| (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 | 18412<br>18413<br>18414<br>18415<br>18416<br>18417<br>18418<br>18419<br>18420 |

or the person's advice to a client unless any of the following 18421  
applies: 18422

(a) The communication or advice indicates clear and present 18423  
danger to the client or other persons. For the purposes of this 18424  
division, cases in which there are indications of present or past 18425  
child abuse or neglect of the client constitute a clear and 18426  
present danger. 18427

(b) The client gives express consent to the testimony. 18428

(c) If the client is deceased, the surviving spouse or the 18429  
executor or administrator of the estate of the deceased client 18430  
gives express consent. 18431

(d) The client voluntarily testifies, in which case the 18432  
school guidance counselor or person licensed or registered under 18433  
Chapter 4757. of the Revised Code may be compelled to testify on 18434  
the same subject. 18435

(e) The court in camera determines that the information 18436  
communicated by the client is not germane to the counselor-client, 18437  
marriage and family therapist-client, or social worker-client 18438  
relationship. 18439

(f) A court, in an action brought against a school, its 18440  
administration, or any of its personnel by the client, rules after 18441  
an in-camera inspection that the testimony of the school guidance 18442  
counselor is relevant to that action. 18443

(g) The testimony is sought in a civil action and concerns 18444  
court-ordered treatment or services received by a patient as part 18445  
of a case plan journalized under section 2151.412 of the Revised 18446  
Code or the court-ordered treatment or services are necessary or 18447  
relevant to dependency, neglect, or abuse or temporary or 18448  
permanent custody proceedings under Chapter 2151. of the Revised 18449  
Code. 18450

(2) Nothing in division (G)(1) of this section shall relieve 18451  
a school guidance counselor or a person licensed or registered 18452  
under Chapter 4757. of the Revised Code from the requirement to 18453  
report information concerning child abuse or neglect under section 18454  
2151.421 of the Revised Code. 18455

(H) A mediator acting under a mediation order issued under 18456  
division (A) of section 3109.052 of the Revised Code or otherwise 18457  
issued in any proceeding for divorce, dissolution, legal 18458  
separation, annulment, or the allocation of parental rights and 18459  
responsibilities for the care of children, in any action or 18460  
proceeding, other than a criminal, delinquency, child abuse, child 18461  
neglect, or dependent child action or proceeding, that is brought 18462  
by or against either parent who takes part in mediation in 18463  
accordance with the order and that pertains to the mediation 18464  
process, to any information discussed or presented in the 18465  
mediation process, to the allocation of parental rights and 18466  
responsibilities for the care of the parents' children, or to the 18467  
awarding of parenting time rights in relation to their children; 18468

(I) A communications assistant, acting within the scope of 18469  
the communication assistant's authority, when providing 18470  
telecommunications relay service pursuant to section 4931.06 of 18471  
the Revised Code or Title II of the "Communications Act of 1934," 18472  
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 18473  
made through a telecommunications relay service. Nothing in this 18474  
section shall limit the obligation of a communications assistant 18475  
to divulge information or testify when mandated by federal law or 18476  
regulation or pursuant to subpoena in a criminal proceeding. 18477

Nothing in this section shall limit any immunity or privilege 18478  
granted under federal law or regulation. 18479

(J)(1) A chiropractor in a civil proceeding concerning a 18480  
communication made to the chiropractor by a patient in that 18481  
relation or the chiropractor's advice to a patient, except as 18482

otherwise provided in this division. The testimonial privilege 18483  
established under this division does not apply, and a chiropractor 18484  
may testify or may be compelled to testify, in any civil action, 18485  
in accordance with the discovery provisions of the Rules of Civil 18486  
Procedure in connection with a civil action, or in connection with 18487  
a claim under Chapter 4123. of the Revised Code, under any of the 18488  
following circumstances: 18489

(a) If the patient or the guardian or other legal 18490  
representative of the patient gives express consent. 18491

(b) If the patient is deceased, the spouse of the patient or 18492  
the executor or administrator of the patient's estate gives 18493  
express consent. 18494

(c) If a medical claim, dental claim, chiropractic claim, or 18495  
optometric claim, as defined in section 2305.113 of the Revised 18496  
Code, an action for wrongful death, any other type of civil 18497  
action, or a claim under Chapter 4123. of the Revised Code is 18498  
filed by the patient, the personal representative of the estate of 18499  
the patient if deceased, or the patient's guardian or other legal 18500  
representative. 18501

(2) If the testimonial privilege described in division (J)(1) 18502  
of this section does not apply as provided in division (J)(1)(c) 18503  
of this section, a chiropractor may be compelled to testify or to 18504  
submit to discovery under the Rules of Civil Procedure only as to 18505  
a communication made to the chiropractor by the patient in 18506  
question in that relation, or the chiropractor's advice to the 18507  
patient in question, that related causally or historically to 18508  
physical or mental injuries that are relevant to issues in the 18509  
medical claim, dental claim, chiropractic claim, or optometric 18510  
claim, action for wrongful death, other civil action, or claim 18511  
under Chapter 4123. of the Revised Code. 18512

(3) The testimonial privilege established under this division 18513

does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be

compelled to testify on the same subject. 18545

(e) The court in camera determines that the information 18546  
communicated by the individual who received crisis response 18547  
services is not germane to the relationship between the individual 18548  
and the team member. 18549

(f) The communication or advice pertains or is related to any 18550  
criminal act. 18551

(3) As used in division (K) of this section: 18552

(a) "Crisis response services" means consultation, risk 18553  
assessment, referral, and on-site crisis intervention services 18554  
provided by a critical incident stress management team to 18555  
individuals affected by crisis or disaster. 18556

(b) "Critical incident stress management team member" or 18557  
"team member" means an individual specially trained to provide 18558  
crisis response services as a member of an organized community or 18559  
local crisis response team that holds membership in the Ohio 18560  
critical incident stress management network. 18561

(c) "Debriefing session" means a session at which crisis 18562  
response services are rendered by a critical incident stress 18563  
management team member during or after a crisis or disaster. 18564

(L)(1) Subject to division (L)(2) of this section and except 18565  
as provided in division (L)(3) of this section, an employee 18566  
assistance professional, concerning a communication made to the 18567  
employee assistance professional by a client in the employee 18568  
assistance professional's official capacity as an employee 18569  
assistance professional. 18570

(2) Division (L)(1) of this section applies to an employee 18571  
assistance professional who meets either or both of the following 18572  
requirements: 18573

(a) Is certified by the employee assistance certification 18574

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| commission to engage in the employee assistance profession;   | 18575 |
| (b) Has education, training, and experience in all of the following:  | 18576 |
| (i) Providing workplace-based services designed to address employer and employee productivity issues;   | 18577 |
| (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;   | 18578 |
| (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;            | 18580 |
| (iv) Selecting and evaluating available community resources;  | 18581 |
| (v) Making appropriate referrals;   | 18582 |
| (vi) Local and national employee assistance agreements;   | 18583 |
| (vii) Client confidentiality.   | 18584 |
| (3) Division (L)(1) of this section does not apply to any of the following:   | 18584 |
| (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; | 18585 |
| (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;  | 18586 |
| (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;  | 18587 |
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(d) A civil proceeding to determine an individual's mental 18604  
competency or a criminal action in which a plea of not guilty by 18605  
reason of insanity is entered; 18606

(e) A civil or criminal malpractice action brought against 18607  
the employee assistance professional; 18608

(f) When the employee assistance professional has the express 18609  
consent of the client or, if the client is deceased or disabled, 18610  
the client's legal representative; 18611

(g) When the testimonial privilege otherwise provided by 18612  
division (L)(1) of this section is abrogated under law. 18613

**Sec. 2317.422.** (A) Notwithstanding sections 2317.40 and 18614  
2317.41 of the Revised Code but subject to division (B) of this 18615  
section, the records, or copies or photographs of the records, of 18616  
a hospital, homes required to be licensed pursuant to section 18617  
3721.01 of the Revised Code, and ~~adult care residential~~ facilities 18618  
~~required to be licensed pursuant to Chapter 5119. section 5119.22~~ 18619  
of the Revised Code that provides accommodations, supervision, and 18620  
personal care services for three to sixteen unrelated adults, in 18621  
lieu of the testimony in open court of their custodian, person who 18622  
made them, or person under whose supervision they were made, may 18623  
be qualified as authentic evidence if any such person endorses 18624  
thereon the person's verified certification identifying such 18625  
records, giving the mode and time of their preparation, and 18626  
stating that they were prepared in the usual course of the 18627  
business of the institution. Such records, copies, or photographs 18628  
may not be qualified by certification as provided in this section 18629  
unless the party intending to offer them delivers a copy of them, 18630  
or of their relevant portions, to the attorney of record for each 18631  
adverse party not less than five days before trial. Nothing in 18632  
this section shall be construed to limit the right of any party to 18633  
call the custodian, person who made such records, or person under 18634

whose supervision they were made, as a witness. 18635

(B) Division (A) of this section does not apply to any 18636  
certified copy of the results of any test given to determine the 18637  
presence or concentration of alcohol, a drug of abuse, a 18638  
combination of them, a controlled substance, or a metabolite of a 18639  
controlled substance in a patient's whole blood, blood serum or 18640  
plasma, breath, or urine at any time relevant to a criminal 18641  
offense that is submitted in a criminal action or proceeding in 18642  
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 18643  
of the Revised Code. 18644

**Sec. 2317.56.** (A) As used in this section: 18645

(1) "Medical emergency" means a condition of a pregnant woman 18646  
that, in the reasonable judgment of the physician who is attending 18647  
the woman, creates an immediate threat of serious risk to the life 18648  
or physical health of the woman from the continuation of the 18649  
pregnancy necessitating the immediate performance or inducement of 18650  
an abortion. 18651

(2) "Medical necessity" means a medical condition of a 18652  
pregnant woman that, in the reasonable judgment of the physician 18653  
who is attending the woman, so complicates the pregnancy that it 18654  
necessitates the immediate performance or inducement of an 18655  
abortion. 18656

(3) "Probable gestational age of the embryo or fetus" means 18657  
the gestational age that, in the judgment of a physician, is, with 18658  
reasonable probability, the gestational age of the embryo or fetus 18659  
at the time that the physician informs a pregnant woman pursuant 18660  
to division (B)(1)(b) of this section. 18661

(B) Except when there is a medical emergency or medical 18662  
necessity, an abortion shall be performed or induced only if all 18663  
of the following conditions are satisfied: 18664

(1) At least twenty-four hours prior to the performance or 18665  
inducement of the abortion, a physician meets with the pregnant 18666  
woman in person in an individual, private setting and gives her an 18667  
adequate opportunity to ask questions about the abortion that will 18668  
be performed or induced. At this meeting, the physician shall 18669  
inform the pregnant woman, verbally or, if she is hearing 18670  
impaired, by other means of communication, of all of the 18671  
following: 18672

(a) The nature and purpose of the particular abortion 18673  
procedure to be used and the medical risks associated with that 18674  
procedure; 18675

(b) The probable gestational age of the embryo or fetus; 18676

(c) The medical risks associated with the pregnant woman 18677  
carrying the pregnancy to term. 18678

The meeting need not occur at the facility where the abortion 18679  
is to be performed or induced, and the physician involved in the 18680  
meeting need not be affiliated with that facility or with the 18681  
physician who is scheduled to perform or induce the abortion. 18682

(2) At least twenty-four hours prior to the performance or 18683  
inducement of the abortion, one or more physicians or one or more 18684  
agents of one or more physicians do each of the following in 18685  
person, by telephone, by certified mail, return receipt requested, 18686  
or by regular mail evidenced by a certificate of mailing: 18687

(a) Inform the pregnant woman of the name of the physician 18688  
who is scheduled to perform or induce the abortion; 18689

(b) Give the pregnant woman copies of the published materials 18690  
described in division (C) of this section; 18691

(c) Inform the pregnant woman that the materials given 18692  
pursuant to division (B)(2)(b) of this section are ~~provided~~ 18693  
published by the state and that they describe the embryo or fetus 18694

and list agencies that offer alternatives to abortion. The 18695  
pregnant woman may choose to examine or not to examine the 18696  
materials. A physician or an agent of a physician may choose to be 18697  
disassociated from the materials and may choose to comment or not 18698  
comment on the materials. 18699

(3) Prior to the performance or inducement of the abortion, 18700  
the pregnant woman signs a form consenting to the abortion and 18701  
certifies both of the following on that form: 18702

(a) She has received the information and materials described 18703  
in divisions (B)(1) and (2) of this section, and her questions 18704  
about the abortion that will be performed or induced have been 18705  
answered in a satisfactory manner. 18706

(b) She consents to the particular abortion voluntarily, 18707  
knowingly, intelligently, and without coercion by any person, and 18708  
she is not under the influence of any drug of abuse or alcohol. 18709

(4) Prior to the performance or inducement of the abortion, 18710  
the physician who is scheduled to perform or induce the abortion 18711  
or the physician's agent receives a copy of the pregnant woman's 18712  
signed form on which she consents to the abortion and that 18713  
includes the certification required by division (B)(3) of this 18714  
section. 18715

(C) The department of health shall ~~cause to be published~~ 18716  
publish in English and in Spanish, in a typeface large enough to 18717  
be clearly legible, and in an easily comprehensible format, the 18718  
following materials on the department's web site: 18719

(1) Materials that inform the pregnant woman about family 18720  
planning information, of publicly funded agencies that are 18721  
available to assist in family planning, and of public and private 18722  
agencies and services that are available to assist her through the 18723  
pregnancy, upon childbirth, and while the child is dependent, 18724  
including, but not limited to, adoption agencies. The materials 18725

shall be geographically indexed; include a comprehensive list of 18726  
the available agencies, a description of the services offered by 18727  
the agencies, and the telephone numbers and addresses of the 18728  
agencies; and inform the pregnant woman about available medical 18729  
assistance benefits for prenatal care, childbirth, and neonatal 18730  
care and about the support obligations of the father of a child 18731  
who is born alive. The department shall ensure that the materials 18732  
described in division (C)(1) of this section are comprehensive and 18733  
do not directly or indirectly promote, exclude, or discourage the 18734  
use of any agency or service described in this division. 18735

(2) Materials that inform the pregnant woman of the probable 18736  
anatomical and physiological characteristics of the zygote, 18737  
blastocyte, embryo, or fetus at two-week gestational increments 18738  
for the first sixteen weeks of pregnancy and at four-week 18739  
gestational increments from the seventeenth week of pregnancy to 18740  
full term, including any relevant information regarding the time 18741  
at which the fetus possibly would be viable. The department shall 18742  
cause these materials to be published only after it consults with 18743  
the Ohio state medical association and the Ohio section of the 18744  
American college of obstetricians and gynecologists relative to 18745  
the probable anatomical and physiological characteristics of a 18746  
zygote, blastocyte, embryo, or fetus at the various gestational 18747  
increments. The materials shall use language that is 18748  
understandable by the average person who is not medically trained, 18749  
shall be objective and nonjudgmental, and shall include only 18750  
accurate scientific information about the zygote, blastocyte, 18751  
embryo, or fetus at the various gestational increments. If the 18752  
materials use a pictorial, photographic, or other depiction to 18753  
provide information regarding the zygote, blastocyte, embryo, or 18754  
fetus, the materials shall include, in a conspicuous manner, a 18755  
scale or other explanation that is understandable by the average 18756  
person and that can be used to determine the actual size of the 18757  
zygote, blastocyte, embryo, or fetus at a particular gestational 18758

increment as contrasted with the depicted size of the zygote, 18759  
blastocyte, embryo, or fetus at that gestational increment. 18760

(D) Upon the submission of a request to the department of 18761  
health by any person, hospital, physician, or medical facility for 18762  
one ~~or more copies~~ copy of the materials published in accordance 18763  
with division (C) of this section, the department shall make the 18764  
requested ~~number of copies~~ copy of the materials available to the 18765  
person, hospital, physician, or medical facility that requested 18766  
the ~~copies~~ copy. 18767

(E) If a medical emergency or medical necessity compels the 18768  
performance or inducement of an abortion, the physician who will 18769  
perform or induce the abortion, prior to its performance or 18770  
inducement if possible, shall inform the pregnant woman of the 18771  
medical indications supporting the physician's judgment that an 18772  
immediate abortion is necessary. Any physician who performs or 18773  
induces an abortion without the prior satisfaction of the 18774  
conditions specified in division (B) of this section because of a 18775  
medical emergency or medical necessity shall enter the reasons for 18776  
the conclusion that a medical emergency or medical necessity 18777  
exists in the medical record of the pregnant woman. 18778

(F) If the conditions specified in division (B) of this 18779  
section are satisfied, consent to an abortion shall be presumed to 18780  
be valid and effective. 18781

(G) The performance or inducement of an abortion without the 18782  
prior satisfaction of the conditions specified in division (B) of 18783  
this section does not constitute, and shall not be construed as 18784  
constituting, a violation of division (A) of section 2919.12 of 18785  
the Revised Code. The failure of a physician to satisfy the 18786  
conditions of division (B) of this section prior to performing or 18787  
inducing an abortion upon a pregnant woman may be the basis of 18788  
both of the following: 18789

|  |   |
|--|---|
| (1) A civil action for compensatory and exemplary damages as described in division (H) of this section;  | 18790<br>18791  |
| (2) Disciplinary action under section 4731.22 of the Revised Code.   | 18792<br>18793  |
| (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. | 18794<br>18795<br>18796<br>18797<br>18798<br>18799<br>18800<br>18801<br>18802<br>18803<br>18804 |
| (2) The following shall be affirmative defenses in a civil action authorized by division (H)(1) of this section:   | 18805<br>18806  |
| (a) The physician performed or induced the abortion under the circumstances described in division (E) of this section.   | 18807<br>18808  |
| (b) The physician made a good faith effort to satisfy the conditions specified in division (B) of this section.  | 18809<br>18810  |
| <del>(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.</del>  | 18811<br>18812<br>18813<br>18814<br>18815<br>18816<br>18817<br>18818<br>18819                   |
| (3) An employer or other principal is not liable in damages  | 18820   |

in a civil action authorized by division (H)(1) of this section on 18821  
the basis of the doctrine of respondeat superior unless either of 18822  
the following applies: 18823

(a) The employer or other principal had actual knowledge or, 18824  
by the exercise of reasonable diligence, should have known that an 18825  
employee or agent performed or induced an abortion with actual 18826  
knowledge that the conditions specified in division (B) of this 18827  
section had not been satisfied or with a heedless indifference as 18828  
to whether those conditions had been satisfied. 18829

(b) The employer or other principal negligently failed to 18830  
secure the compliance of an employee or agent with division (B) of 18831  
this section. 18832

(4) Notwithstanding division (E) of section 2919.12 of the 18833  
Revised Code, the civil action authorized by division (H)(1) of 18834  
this section shall be the exclusive civil remedy for persons, or 18835  
the representatives of estates of persons, who allegedly sustain 18836  
injury, death, or loss to person or property as a result of a 18837  
failure to satisfy the conditions specified in division (B) of 18838  
this section. 18839

(I) The department of job and family services shall prepare 18840  
and conduct a public information program to inform women of all 18841  
available governmental programs and agencies that provide services 18842  
or assistance for family planning, prenatal care, child care, or 18843  
alternatives to abortion. 18844

**Sec. 2329.192.** (A) As used in this section: 18845

(1) "State lien" means a lien upon real estate, including 18846  
lands and tenements, indebted to the state for debt, taxes, or in 18847  
any other manner recorded by a state agency in any office of the 18848  
clerk of a county court or the county recorder. 18849

(2) "State lienholder" means the department, agency, or other 18850

division of the state in whose name a state lien has been filed or 18851  
recorded. 18852

(B) In every action seeking the judicial sale of real estate 18853  
that is subject to a state lien, all of the following apply: 18854

(1) The party seeking a judicial sale shall include the state 18855  
lienholder as a party defendant and shall serve that state 18856  
lienholder with a copy of the preliminary judicial report or 18857  
commitment for an owner's fee policy of title insurance filed in 18858  
accordance with section 2329.191 of the Revised Code. 18859

(2) A state lienholder shall not be made a party defendant if 18860  
no state lien has been recorded against the owner of the real 18861  
estate for which the judicial sale is sought. 18862

(3) The appearance of the state lienholder shall be presumed 18863  
for purposes of jurisdiction, and the court shall take judicial 18864  
notice that the state has a lien against the real estate. 18865

(4) A state lienholder may, but is not required to, file an 18866  
answer to the complaint or any other pleading in the action if the 18867  
amount, validity, or priority of the state lien is not identified 18868  
in the pleadings as disputed and shall file an answer to the 18869  
complaint or any other pleading in the action if the amount, 18870  
validity, or priority of the state lien is identified in the 18871  
pleadings as disputed. If a state lien is not identified as 18872  
disputed, unless the state files an answer or other responsive 18873  
pleading, the party seeking the judicial sale is not required to 18874  
serve the state lienholder with any answer or subsequent pleadings 18875  
in the action for judicial sale. 18876

(5) As part of any order confirming the sale of the real 18877  
estate that is subject to any undisputed state lien or 18878  
distributing the proceeds of any judicial sale of real estate, the 18879  
undisputed state lien shall be protected as if the state had 18880  
appeared in the action and filed an answer asserting the validity 18881

of the state lien as recorded in the office of the clerk of the 18882  
county court or the office of the county recorder. 18883

(6) Any party asserting a dispute as to the amount, validity, 18884  
or priority of the state lien or of any lien or other interest 18885  
that has priority over the state lien shall serve the state 18886  
lienholder and the attorney general with notice of the dispute, 18887  
and the state lienholder shall be permitted to file a responsive 18888  
pleading and participate in the proceedings as if the state 18889  
lienholder had been served with a summons on the date the state 18890  
lienholder received notice of the dispute. 18891

(C) Upon the judicial sale of the real estate that is the 18892  
subject of an action under division (B) of this section, the 18893  
interest of any undisputed state lien shall transfer to the 18894  
proceeds of the sale of the real estate, and the state lienholder 18895  
shall be entitled to payment from the proceeds of the sale of the 18896  
real estate in accordance with the state lienholder's priority as 18897  
set forth in the final judicial report or commitment for an 18898  
owner's fee policy of title insurance filed in accordance with 18899  
section 2329.191 of the Revised Code. 18900

**Sec. 2501.02.** Each judge of a court of appeals shall have 18901  
been admitted to practice as an attorney at law in this state and 18902  
have, for a total of six years preceding the judge's appointment 18903  
or commencement of the judge's term, engaged in the practice of 18904  
law in this state or served as a judge of a court of record in any 18905  
jurisdiction in the United States, or both. ~~At least two of the~~ 18906  
~~years of practice or service that qualify a judge shall have been~~ 18907  
~~in this state.~~ One judge shall be chosen in each court of appeals 18908  
district every two years, and shall hold office for six years, 18909  
beginning on the ninth day of February next after the judge's 18910  
election. 18911

In addition to the original jurisdiction conferred by Section 18912

3 of Article IV, Ohio Constitution, the court shall have 18913  
jurisdiction upon an appeal upon questions of law to review, 18914  
affirm, modify, set aside, or reverse judgments or final orders of 18915  
courts of record inferior to the court of appeals within the 18916  
district, including the finding, order, or judgment of a juvenile 18917  
court that a child is delinquent, neglected, abused, or dependent, 18918  
for prejudicial error committed by such lower court. 18919

The court, on good cause shown, may issue writs of 18920  
supersedeas in any case, and all other writs, not specially 18921  
provided for or prohibited by statute, necessary to enforce the 18922  
administration of justice. 18923

**Sec. 2503.01.** The supreme court shall consist of a chief 18924  
justice and six justices, each of whom has been admitted to 18925  
practice as an attorney at law in this state and has, for a total 18926  
of at least six years preceding appointment or commencement of the 18927  
justice's term, engaged in the practice of law in this state or 18928  
served as a judge of a court of record in any jurisdiction of the 18929  
United States, or both. ~~At least two of the years of practice or~~ 18930  
~~service that qualify a justice shall have been in this state.~~ 18931

**Sec. 2743.02.** (A)(1) The state hereby waives its immunity 18932  
from liability, except as provided for the office of the state 18933  
fire marshal in division (G)(1) of section 9.60 and division (B) 18934  
of section 3737.221 of the Revised Code and subject to division 18935  
(H) of this section, and consents to be sued, and have its 18936  
liability determined, in the court of claims created in this 18937  
chapter in accordance with the same rules of law applicable to 18938  
suits between private parties, except that the determination of 18939  
liability is subject to the limitations set forth in this chapter 18940  
and, in the case of state universities or colleges, in section 18941  
3345.40 of the Revised Code, and except as provided in division 18942  
(A)(2) or (3) of this section. To the extent that the state has 18943

previously consented to be sued, this chapter has no 18944  
applicability. 18945

Except in the case of a civil action filed by the state, 18946  
filing a civil action in the court of claims results in a complete 18947  
waiver of any cause of action, based on the same act or omission, 18948  
~~which~~ that the filing party has against any officer or employee, 18949  
as defined in section 109.36 of the Revised Code. The waiver shall 18950  
be void if the court determines that the act or omission was 18951  
manifestly outside the scope of the officer's or employee's office 18952  
or employment or that the officer or employee acted with malicious 18953  
purpose, in bad faith, or in a wanton or reckless manner. 18954

(2) If a claimant proves in the court of claims that an 18955  
officer or employee, as defined in section 109.36 of the Revised 18956  
Code, would have personal liability for the officer's or 18957  
employee's acts or omissions but for the fact that the officer or 18958  
employee has personal immunity under section 9.86 of the Revised 18959  
Code, the state shall be held liable in the court of claims in any 18960  
action that is timely filed pursuant to section 2743.16 of the 18961  
Revised Code and that is based upon the acts or omissions. 18962

(3)(a) Except as provided in division (A)(3)(b) of this 18963  
section, the state is immune from liability in any civil action or 18964  
proceeding involving the performance or nonperformance of a public 18965  
duty, including the performance or nonperformance of a public duty 18966  
that is owed by the state in relation to any action of an 18967  
individual who is committed to the custody of the state. 18968

(b) The state immunity provided in division (A)(3)(a) of this 18969  
section does not apply to any action of the state under 18970  
circumstances in which a special relationship can be established 18971  
between the state and an injured party. A special relationship 18972  
under this division is demonstrated if all of the following 18973  
elements exist: 18974

(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; 18975  
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(ii) Knowledge on the part of the state's agents that inaction of the state could lead to harm; 18978  
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(iii) Some form of direct contact between the state's agents and the injured party; 18980  
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(iv) The injured party's justifiable reliance on the state's affirmative undertaking. 18982  
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(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. 18984  
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(C) Any hospital, as defined in section 2305.113 of the Revised Code, may purchase liability insurance covering its operations and activities and its agents, employees, nurses, interns, residents, staff, and members of the governing board and committees, and, whether or not such insurance is purchased, may, to ~~such~~ the extent ~~as~~ that its governing board considers appropriate, indemnify or agree to indemnify and hold harmless any such person against expense, including attorney's fees, damage, loss, or other liability arising out of, or claimed to have arisen out of, the death, disease, or injury of any person as a result of the negligence, malpractice, or other action or inaction of the indemnified person while acting within the scope of the indemnified person's duties or engaged in activities at the 18993  
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request or direction, or for the benefit, of the hospital. Any 19006  
hospital electing to indemnify ~~such~~ those persons, or to agree to 19007  
so indemnify, shall reserve ~~such~~ any funds ~~as~~ that are necessary, 19008  
in the exercise of sound and prudent actuarial judgment, to cover 19009  
the potential expense, fees, damage, loss, or other liability. The 19010  
superintendent of insurance may recommend, or, if ~~such~~ the 19011  
hospital requests the superintendent to do so, the superintendent 19012  
shall recommend, a specific amount for any period that, in the 19013  
superintendent's opinion, represents such a judgment. This 19014  
authority is in addition to any authorization otherwise provided 19015  
or permitted by law. 19016

(D) Recoveries against the state shall be reduced by the 19017  
aggregate of insurance proceeds, disability award, or other 19018  
collateral recovery received by the claimant. This division does 19019  
not apply to civil actions in the court of claims against a state 19020  
university or college under the circumstances described in section 19021  
3345.40 of the Revised Code. The collateral benefits provisions of 19022  
division (B)(2) of that section apply under those circumstances. 19023

(E) The only defendant in original actions in the court of 19024  
claims is the state. The state may file a third-party complaint or 19025  
counterclaim in any civil action, except a civil action for ~~two~~ 19026  
ten thousand ~~five hundred~~ dollars or less, that is filed in the 19027  
court of claims. 19028

(F) A civil action against an officer or employee, as defined 19029  
in section 109.36 of the Revised Code, that alleges that the 19030  
officer's or employee's conduct was manifestly outside the scope 19031  
of the officer's or employee's employment or official 19032  
responsibilities, or that the officer or employee acted with 19033  
malicious purpose, in bad faith, or in a wanton or reckless manner 19034  
shall first be filed against the state in the court of claims, 19035  
~~which~~ that has exclusive, original jurisdiction to determine, 19036  
initially, whether the officer or employee is entitled to personal 19037

immunity under section 9.86 of the Revised Code and whether the 19038  
courts of common pleas have jurisdiction over the civil action. 19039  
The officer or employee may participate in the immunity 19040  
determination proceeding before the court of claims to determine 19041  
whether the officer or employee is entitled to personal immunity 19042  
under section 9.86 of the Revised Code. 19043

The filing of a claim against an officer or employee under 19044  
this division tolls the running of the applicable statute of 19045  
limitations until the court of claims determines whether the 19046  
officer or employee is entitled to personal immunity under section 19047  
9.86 of the Revised Code. 19048

(G) ~~Whenever~~ If a claim lies against an officer or employee 19049  
who is a member of the Ohio national guard, and the officer or 19050  
employee was, at the time of the act or omission complained of, 19051  
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 19052  
U.S.C. 2671, et seq., ~~then~~ the Federal Tort Claims Act is the 19053  
exclusive remedy of the claimant and the state has no liability 19054  
under this section. 19055

(H) If an inmate of a state correctional institution has a 19056  
claim against the state for the loss of or damage to property and 19057  
the amount claimed does not exceed three hundred dollars, before 19058  
commencing an action against the state in the court of claims, the 19059  
inmate shall file a claim for the loss or damage under the rules 19060  
adopted by the director of rehabilitation and correction pursuant 19061  
to this division. The inmate shall file the claim within the time 19062  
allowed for commencement of a civil action under section 2743.16 19063  
of the Revised Code. If the state admits or compromises the claim, 19064  
the director shall make payment from a fund designated by the 19065  
director for that purpose. If the state denies the claim or does 19066  
not compromise the claim at least sixty days prior to expiration 19067  
of the time allowed for commencement of a civil action based upon 19068  
the loss or damage under section 2743.16 of the Revised Code, the 19069

inmate may commence an action in the court of claims under this 19070  
chapter to recover damages for the loss or damage. 19071

The director of rehabilitation and correction shall adopt 19072  
rules pursuant to Chapter 119. of the Revised Code to implement 19073  
this division. 19074

**Sec. 2743.10.** (A) Civil actions against the state for ~~two~~ ten 19075  
thousand ~~five hundred~~ dollars or less shall be determined 19076  
administratively by the clerk of the court of claims, except that 19077  
the clerk is not required to administratively determine a civil 19078  
action of that nature if the civil action was commenced by a 19079  
person who has been found to be a vexatious litigator under 19080  
section 2323.52 of the Revised Code and who has failed to obtain 19081  
leave to proceed under that section and if the clerk refused 19082  
pursuant to division (D) of section 2743.09 of the Revised Code to 19083  
accept for filing any pleading or paper that relates to the civil 19084  
action and that was submitted for filing by that person and except 19085  
that all civil actions against the state that have been removed to 19086  
the court of claims shall be heard and determined by a judge of 19087  
the court of claims. 19088

(B) Civil actions covered by division (A) of this section 19089  
shall be commenced by filing with the clerk on complaint forms 19090  
prescribed by the supreme court. The clerk shall forward copies of 19091  
the form complaint to the attorney general and the state 19092  
department, board, office, commission, agency, institution, or 19093  
other instrumentality whose actions or failure to act are the 19094  
subject of complaint. The latter shall investigate the allegations 19095  
made in the form complaint and report the results of its 19096  
investigation to the clerk within sixty days of receipt of a copy 19097  
of the form complaint. The clerk shall forward a copy of the 19098  
report to the claimant and give the claimant an opportunity to 19099  
respond to the report either in writing or by appearing before the 19100

clerk. 19101

(C) The clerk shall determine the civil action covered by 19102  
division (A) of this section and make a report of the decision, 19103  
together with findings of fact and conclusions of law, copies of 19104  
which shall be mailed to the claimant and the state 19105  
instrumentality. Except as otherwise provided in this division, 19106  
the determination shall be based upon principles of law applicable 19107  
in the court of claims, including, but not limited to, section 19108  
3345.40 of the Revised Code if a state university or college is a 19109  
defendant in the court of claims. 19110

Rules of evidence shall not be applicable in the 19111  
determination. Procedures shall be governed by rules promulgated 19112  
by the clerk, shall be informal, and shall be designed to 19113  
accommodate persons who are not skilled in the law. 19114

(D) Upon the motion of a party, the court of claims shall 19115  
review the determination of the clerk upon the clerk's report and 19116  
papers filed in the action and shall enter judgment consistent 19117  
with its findings. The judgment shall not be the subject of 19118  
further appeal. No civil action arising out of the same 19119  
transaction or set of facts may be commenced by the claimant in 19120  
the court of claims. 19121

(E) The determination of the clerk pursuant to division (C) 19122  
of this section shall be processed pursuant to section 2743.19 of 19123  
the Revised Code as if it were a judgment. 19124

**Sec. 2746.01.** A court of record of this state shall tax as 19125  
costs or otherwise require the payment of fees for the following 19126  
services rendered or as compensation for the following persons or 19127  
any other of the following fees that are applicable in a 19128  
particular case: 19129

(A) Appraisers, commissioners, or arbitrators appointed to 19130

|   |       |
|---|-------|
| make or procure an appraisalment or valuation of any property, as                   | 19131 |
| provided in section 2335.02 of the Revised Code;                                    | 19132 |
| (B) Auctioneers appointed to conduct any public auction of                          | 19133 |
| goods, chattels, or lands required to be sold by an officer of the                  | 19134 |
| court, as provided in section 2335.021 of the Revised Code;                         | 19135 |
| (C) Commissioners appointed to make partition of lands or to                        | 19136 |
| assign dower and appraisers of real or personal property on                         | 19137 |
| execution, replevin, or attachment or to fix the value of exempt                    | 19138 |
| property, as provided in section 2335.01 of the Revised Code;                       | 19139 |
| (D) Deposit of rent with the clerk of court by a resident of                        | 19140 |
| a manufactured home park, as provided in section <del>3733.121</del> <u>4781.42</u> | 19141 |
| of the Revised Code, or by a tenant of residential premises, as                     | 19142 |
| provided in section 5321.08 of the Revised Code;                                    | 19143 |
| (E) Interpreters, as provided in section 2335.09 of the                             | 19144 |
| Revised Code;   | 19145 |
| (F) Fees in a civil action or appeal commenced by an inmate                         | 19146 |
| against a government entity or employee, as provided in section                     | 19147 |
| 2969.22 of the Revised Code;  | 19148 |
| (G) Procurement of a transcript of a judgment or proceeding                         | 19149 |
| or exemplification of a record in an appeal or other civil action,                  | 19150 |
| as provided in section 2303.21 of the Revised Code;                                 | 19151 |
| (H) Publication of an advertisement, notice, or proclamation                        | 19152 |
| required to be published by a trustee, assignee, executor,                          | 19153 |
| administrator, receiver, or other officer of the court or a party                   | 19154 |
| in a case or proceeding, as provided in section 7.13 of the                         | 19155 |
| Revised Code;   | 19156 |
| (I) Publication of calendars, motion dockets, legal                                 | 19157 |
| advertisements, and notices, the fees for which are not fixed by                    | 19158 |
| law, as provided in section 2701.09 of the Revised Code;                            | 19159 |
| (J) Sheriffs, as provided in section 311.17 of the Revised                          | 19160 |

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|---|----------------------------------|
| Code;   | 19161                            |
| (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;                                 | 19162<br>19163<br>19164          |
| (L) Witnesses, as follows:  | 19165                            |
| (1) Fees and mileage in civil cases, as provided in section 2335.06 of the Revised Code;  | 19166<br>19167                   |
| (2) Fees and mileage in criminal cases, as provided in section 2335.08 of the Revised Code;   | 19168<br>19169                   |
| (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;                                       | 19170<br>19171<br>19172          |
| (4) Fees of municipal police officers in state felony cases, as provided in section 2335.17 of the Revised Code;  | 19173<br>19174                   |
| (5) Fees in arbitration proceedings, as provided in section 2711.06 of the Revised Code.  | 19175<br>19176                   |
| (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. | 19177<br>19178<br>19179<br>19180 |
| <b>Sec. 2901.01.</b> (A) As used in the Revised Code:   | 19181                            |
| (1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.  | 19182<br>19183                   |
| (2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.  | 19184<br>19185                   |
| (3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.   | 19186<br>19187<br>19188          |

(4) "Physical harm to property" means any tangible or 19189  
intangible damage to property that, in any degree, results in loss 19190  
to its value or interferes with its use or enjoyment. "Physical 19191  
harm to property" does not include wear and tear occasioned by 19192  
normal use. 19193

(5) "Serious physical harm to persons" means any of the 19194  
following: 19195

(a) Any mental illness or condition of such gravity as would 19196  
normally require hospitalization or prolonged psychiatric 19197  
treatment; 19198

(b) Any physical harm that carries a substantial risk of 19199  
death; 19200

(c) Any physical harm that involves some permanent 19201  
incapacity, whether partial or total, or that involves some 19202  
temporary, substantial incapacity; 19203

(d) Any physical harm that involves some permanent 19204  
disfigurement or that involves some temporary, serious 19205  
disfigurement; 19206

(e) Any physical harm that involves acute pain of such 19207  
duration as to result in substantial suffering or that involves 19208  
any degree of prolonged or intractable pain. 19209

(6) "Serious physical harm to property" means any physical 19210  
harm to property that does either of the following: 19211

(a) Results in substantial loss to the value of the property 19212  
or requires a substantial amount of time, effort, or money to 19213  
repair or replace; 19214

(b) Temporarily prevents the use or enjoyment of the property 19215  
or substantially interferes with its use or enjoyment for an 19216  
extended period of time. 19217

(7) "Risk" means a significant possibility, as contrasted 19218

with a remote possibility, that a certain result may occur or that  
certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as  
contrasted with a remote or significant possibility, that a  
certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03,  
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211,  
2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03,  
2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11,  
2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04,  
2921.34, or 2923.161, of division (A)(1), (2), or (3) of section  
2911.12, or of division (B)(1), (2), (3), or (4) of section  
2919.22 of the Revised Code or felonious sexual penetration in  
violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance  
or law of this or any other state or the United States,  
substantially equivalent to any section, division, or offense  
listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an  
existing or former municipal ordinance or law of this or any other  
state or the United States, committed purposely or knowingly, and  
involving physical harm to persons or a risk of serious physical  
harm to persons;

(d) A conspiracy or attempt to commit, or complicity in  
committing, any offense under division (A)(9)(a), (b), or (c) of  
this section.

(10)(a) "Property" means any property, real or personal,  
tangible or intangible, and any interest or license in that  
property. "Property" includes, but is not limited to, cable  
television service, other telecommunications service,

telecommunications devices, information service, computers, data, 19250  
computer software, financial instruments associated with 19251  
computers, other documents associated with computers, or copies of 19252  
the documents, whether in machine or human readable form, trade 19253  
secrets, trademarks, copyrights, patents, and property protected 19254  
by a trademark, copyright, or patent. "Financial instruments 19255  
associated with computers" include, but are not limited to, 19256  
checks, drafts, warrants, money orders, notes of indebtedness, 19257  
certificates of deposit, letters of credit, bills of credit or 19258  
debit cards, financial transaction authorization mechanisms, 19259  
marketable securities, or any computer system representations of 19260  
any of them. 19261

(b) As used in division (A)(10) of this section, "trade 19262  
secret" has the same meaning as in section 1333.61 of the Revised 19263  
Code, and "telecommunications service" and "information service" 19264  
have the same meanings as in section 2913.01 of the Revised Code. 19265

(c) As used in divisions (A)(10) and (13) of this section, 19266  
"cable television service," "computer," "computer software," 19267  
"computer system," "computer network," "data," and 19268  
"telecommunications device" have the same meanings as in section 19269  
2913.01 of the Revised Code. 19270

(11) "Law enforcement officer" means any of the following: 19271

(a) A sheriff, deputy sheriff, constable, police officer of a 19272  
township or joint police district, marshal, deputy marshal, 19273  
municipal police officer, member of a police force employed by a 19274  
metropolitan housing authority under division (D) of section 19275  
3735.31 of the Revised Code, or state highway patrol trooper; 19276

(b) An officer, agent, or employee of the state or any of its 19277  
agencies, instrumentalities, or political subdivisions, upon whom, 19278  
by statute, a duty to conserve the peace or to enforce all or 19279  
certain laws is imposed and the authority to arrest violators is 19280

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| conferred, within the limits of that statutory duty and authority;   | 19281                            |
| (c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;   | 19282<br>19283                   |
| (d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;   | 19284<br>19285<br>19286          |
| (e) A person lawfully called pursuant to section 311.07 of the Revised Code to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;   | 19287<br>19288<br>19289          |
| (f) A person appointed by a mayor pursuant to section 737.01 of the Revised Code as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;  | 19290<br>19291<br>19292<br>19293 |
| (g) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;  | 19294<br>19295<br>19296<br>19297 |
| (h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;   | 19298<br>19299                   |
| (i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;   | 19300<br>19301                   |
| (j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;  | 19302<br>19303<br>19304          |
| (k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;  | 19305<br>19306                   |
| (l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms; | 19307<br>19308<br>19309<br>19310 |

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|--|-------|
| (m) <u>The senate sergeant at arms and an assistant senate</u>     | 19311 |
| <u>sergeant at arms;</u>   | 19312 |
| (n) A special police officer employed by a municipal               | 19313 |
| corporation at a municipal airport, or other municipal air         | 19314 |
| navigation facility, that has scheduled operations, as defined in  | 19315 |
| section 119.3 of Title 14 of the Code of Federal Regulations, 14   | 19316 |
| C.F.R. 119.3, as amended, and that is required to be under a       | 19317 |
| security program and is governed by aviation security rules of the | 19318 |
| transportation security administration of the United States        | 19319 |
| department of transportation as provided in Parts 1542. and 1544.  | 19320 |
| of Title 49 of the Code of Federal Regulations, as amended.        | 19321 |
| (12) "Privilege" means an immunity, license, or right              | 19322 |
| conferred by law, bestowed by express or implied grant, arising    | 19323 |
| out of status, position, office, or relationship, or growing out   | 19324 |
| of necessity.  | 19325 |
| (13) "Contraband" means any property that is illegal for a         | 19326 |
| person to acquire or possess under a statute, ordinance, or rule,  | 19327 |
| or that a trier of fact lawfully determines to be illegal to       | 19328 |
| possess by reason of the property's involvement in an offense.     | 19329 |
| "Contraband" includes, but is not limited to, all of the           | 19330 |
| following:   | 19331 |
| (a) Any controlled substance, as defined in section 3719.01        | 19332 |
| of the Revised Code, or any device or paraphernalia;               | 19333 |
| (b) Any unlawful gambling device or paraphernalia;                 | 19334 |
| (c) Any dangerous ordnance or obscene material.                    | 19335 |
| (14) A person is "not guilty by reason of insanity" relative       | 19336 |
| to a charge of an offense only if the person proves, in the manner | 19337 |
| specified in section 2901.05 of the Revised Code, that at the time | 19338 |
| of the commission of the offense, the person did not know, as a    | 19339 |
| result of a severe mental disease or defect, the wrongfulness of   | 19340 |
| the person's acts.   | 19341 |

(B)(1)(a) Subject to division (B)(2) of this section, as used 19342  
in any section contained in Title XXIX of the Revised Code that 19343  
sets forth a criminal offense, "person" includes all of the 19344  
following: 19345

(i) An individual, corporation, business trust, estate, 19346  
trust, partnership, and association; 19347

(ii) An unborn human who is viable. 19348

(b) As used in any section contained in Title XXIX of the 19349  
Revised Code that does not set forth a criminal offense, "person" 19350  
includes an individual, corporation, business trust, estate, 19351  
trust, partnership, and association. 19352

(c) As used in division (B)(1)(a) of this section: 19353

(i) "Unborn human" means an individual organism of the 19354  
species *Homo sapiens* from fertilization until live birth. 19355

(ii) "Viable" means the stage of development of a human fetus 19356  
at which there is a realistic possibility of maintaining and 19357  
nourishing of a life outside the womb with or without temporary 19358  
artificial life-sustaining support. 19359

(2) Notwithstanding division (B)(1)(a) of this section, in no 19360  
case shall the portion of the definition of the term "person" that 19361  
is set forth in division (B)(1)(a)(ii) of this section be applied 19362  
or construed in any section contained in Title XXIX of the Revised 19363  
Code that sets forth a criminal offense in any of the following 19364  
manners: 19365

(a) Except as otherwise provided in division (B)(2)(a) of 19366  
this section, in a manner so that the offense prohibits or is 19367  
construed as prohibiting any pregnant woman or her physician from 19368  
performing an abortion with the consent of the pregnant woman, 19369  
with the consent of the pregnant woman implied by law in a medical 19370  
emergency, or with the approval of one otherwise authorized by law 19371

to consent to medical treatment on behalf of the pregnant woman. 19372  
An abortion that violates the conditions described in the 19373  
immediately preceding sentence may be punished as a violation of 19374  
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 19375  
2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 19376  
of the Revised Code, as applicable. An abortion that does not 19377  
violate the conditions described in the second immediately 19378  
preceding sentence, but that does violate section 2919.12, 19379  
division (B) of section 2919.13, or section 2919.151, 2919.17, or 19380  
2919.18 of the Revised Code, may be punished as a violation of 19381  
section 2919.12, division (B) of section 2919.13, or section 19382  
2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. 19383  
Consent is sufficient under this division if it is of the type 19384  
otherwise adequate to permit medical treatment to the pregnant 19385  
woman, even if it does not comply with section 2919.12 of the 19386  
Revised Code. 19387

(b) In a manner so that the offense is applied or is 19388  
construed as applying to a woman based on an act or omission of 19389  
the woman that occurs while she is or was pregnant and that 19390  
results in any of the following: 19391

(i) Her delivery of a stillborn baby; 19392

(ii) Her causing, in any other manner, the death in utero of 19393  
a viable, unborn human that she is carrying; 19394

(iii) Her causing the death of her child who is born alive 19395  
but who dies from one or more injuries that are sustained while 19396  
the child is a viable, unborn human; 19397

(iv) Her causing her child who is born alive to sustain one 19398  
or more injuries while the child is a viable, unborn human; 19399

(v) Her causing, threatening to cause, or attempting to 19400  
cause, in any other manner, an injury, illness, or other 19401  
physiological impairment, regardless of its duration or gravity, 19402

or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.

(4) "School bus" has the same meaning as in section 4511.01 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; 19432

(5) Any unit of any hospital, as defined in section 3701.01 19433  
of the Revised Code, that provides the same services as a nursing 19434  
home, as defined in section 3721.01 of the Revised Code; 19435

(6) Any institution, residence, or facility that provides, 19436  
for a period of more than twenty-four hours, whether for a 19437  
consideration or not, accommodations to one individual or two 19438  
unrelated individuals who are dependent upon the services of 19439  
others; 19440

~~(7) Any "adult care facility" as defined in section 5119.70 19441  
of the Revised Code; 19442~~

~~(8) Any adult foster home certified under section 5119.692 of 19443  
the Revised Code. 19444~~

(B) "Abuse" means knowingly causing physical harm or 19445  
recklessly causing serious physical harm to a person by physical 19446  
contact with the person or by the inappropriate use of a physical 19447  
or chemical restraint, medication, or isolation on the person. 19448

(C)(1) "Gross neglect" means knowingly failing to provide a 19449  
person with any treatment, care, goods, or service that is 19450  
necessary to maintain the health or safety of the person when the 19451  
failure results in physical harm or serious physical harm to the 19452  
person. 19453

(2) "Neglect" means recklessly failing to provide a person 19454  
with any treatment, care, goods, or service that is necessary to 19455  
maintain the health or safety of the person when the failure 19456  
results in serious physical harm to the person. 19457

(D) "Inappropriate use of a physical or chemical restraint, 19458  
medication, or isolation" means the use of physical or chemical 19459  
restraint, medication, or isolation as punishment, for staff 19460  
convenience, excessively, as a substitute for treatment, or in 19461

quantities that preclude habilitation and treatment. 19462

**Sec. 2907.29.** Every hospital of this state that offers 19463  
organized emergency services shall provide that a physician, a 19464  
physician assistant, a clinical nurse specialist, a certified 19465  
nurse practitioner, or a certified nurse-midwife is available on 19466  
call twenty-four hours each day for the examination of persons 19467  
reported to any law enforcement agency to be victims of sexual 19468  
offenses cognizable as violations of any provision of sections 19469  
2907.02 to 2907.06 of the Revised Code. The physician, physician 19470  
assistant, clinical nurse specialist, certified nurse 19471  
practitioner, or certified nurse-midwife, upon the request of any 19472  
peace officer or prosecuting attorney and with the consent of the 19473  
reported victim or upon the request of the reported victim, shall 19474  
examine the person for the purposes of gathering physical evidence 19475  
and shall complete any written documentation of the physical 19476  
examination. The ~~public~~ director of health ~~council~~ shall establish 19477  
procedures for gathering evidence under this section. 19478

Each reported victim shall be informed of available venereal 19479  
disease, pregnancy, medical, and psychiatric services. 19480

Notwithstanding any other provision of law, a minor may 19481  
consent to examination under this section. The consent is not 19482  
subject to disaffirmance because of minority, and consent of the 19483  
parent, parents, or guardian of the minor is not required for an 19484  
examination under this section. However, the hospital shall give 19485  
written notice to the parent, parents, or guardian of a minor that 19486  
an examination under this section has taken place. The parent, 19487  
parents, or guardian of a minor giving consent under this section 19488  
are not liable for payment for any services provided under this 19489  
section without their consent. 19490

**Sec. 2909.21.** As used in sections 2909.21 to ~~2909.34~~ 2909.31 19491

of the Revised Code: 19492

(A) "Act of terrorism" means an act that is committed within 19493  
or outside the territorial jurisdiction of this state or the 19494  
United States, that constitutes a specified offense if committed 19495  
in this state or constitutes an offense in any jurisdiction within 19496  
or outside the territorial jurisdiction of the United States 19497  
containing all of the essential elements of a specified offense, 19498  
and that is intended to do one or more of the following: 19499

(1) Intimidate or coerce a civilian population; 19500

(2) Influence the policy of any government by intimidation or 19501  
coercion; 19502

(3) Affect the conduct of any government by the act that 19503  
constitutes the offense. 19504

(B) "Biological agent," "delivery system," "toxin," and 19505  
"vector" have the same meanings as in section 2917.33 of the 19506  
Revised Code. 19507

(C) "Biological weapon" means any biological agent, toxin, 19508  
vector, or delivery system or combination of any biological agent 19509  
or agents, any toxin or toxins, any vector or vectors, and any 19510  
delivery system or systems. 19511

(D) "Chemical weapon" means any one or more of the following: 19512

(1) Any toxic chemical or precursor of a toxic chemical that 19513  
is listed in Schedule 1, Schedule 2, or Schedule 3 of the 19514  
international "Convention on the Prohibition of the Development, 19515  
Production, Stockpiling and Use of Chemical Weapons and on their 19516  
Destruction (CWC)," as entered into force on April 29, 1997; 19517

(2) A device specifically designed to cause death or other 19518  
harm through the toxic properties of a toxic chemical or precursor 19519  
identified in division (D)(1) of this section that would be 19520  
created or released as a result of the employment of that device; 19521

(3) Any equipment specifically designed for use directly in connection with the employment of devices identified in division (D)(2) of this section.

(E) "Radiological or nuclear weapon" means any device that is designed to create or release radiation or radioactivity at a level that is dangerous to human life or in order to cause serious physical harm to persons as a result of the radiation or radioactivity created or released.

(F) "Explosive device" has the same meaning as in section 2923.11 of the Revised Code.

(G) "Key component of a binary or multicomponent chemical system" means the precursor that plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent chemical system.

~~(H) "Material assistance" means any of the following:~~

~~(1) Membership in an organization on the United States department of state terrorist exclusion list;~~

~~(2) Use of the person's position of prominence within any country to persuade others to support an organization on the United States department of state terrorist exclusion list;~~

~~(3) Knowingly soliciting funds or other things of value for an organization on the United States department of state terrorist exclusion list;~~

~~(4) Solicitation of any individual for membership in an organization on the United States department of state terrorist exclusion list;~~

~~(5) Commission of an act that the person knows, or reasonably should have known, affords material support or resources to an organization on the United States department of state terrorist~~

~~exclusion list;~~ 19552

~~(6) Hiring or compensating a person known by the person~~ 19553  
~~hiring or providing the compensation to be a member of an~~ 19554  
~~organization on the United States department of state terrorist~~ 19555  
~~exclusion list or a person known by the person hiring or providing~~ 19556  
~~the compensation to be engaged in planning, assisting, or carrying~~ 19557  
~~out an act of terrorism.~~ 19558

~~(I)~~ "Material support or resources" means currency, payment 19559  
instruments, other financial securities, funds, transfer of funds, 19560  
financial services, communications, lodging, training, safe 19561  
houses, false documentation or identification, communications 19562  
equipment, facilities, weapons, lethal substances, explosives, 19563  
personnel, transportation, and other physical assets, except 19564  
medicine or religious materials. 19565

~~(J)~~(I) "Payment instrument" means a check, draft, money 19566  
order, traveler's check, cashier's check, teller's check, or other 19567  
instrument or order for the transmission or payment of money, 19568  
regardless of whether the item in question is negotiable. 19569

~~(K)~~(J) "Peace officer" and "prosecutor" have the same 19570  
meanings as in section 2935.01 of the Revised Code. 19571

~~(L)~~(K) "Precursor" means any chemical reactant that takes 19572  
part at any stage in the production by whatever method of a toxic 19573  
chemical, including any key component of a binary or 19574  
multicomponent chemical system. 19575

~~(M)~~(L) "Response costs" means all costs a political 19576  
subdivision incurs as a result of, or in making any response to, a 19577  
threat of a specified offense made as described in section 2909.23 19578  
of the Revised Code or a specified offense committed as described 19579  
in section 2909.24 of the Revised Code, including, but not limited 19580  
to, all costs so incurred by any law enforcement officers, 19581  
firefighters, rescue personnel, or emergency medical services 19582

personnel of the political subdivision and all costs so incurred 19583  
by the political subdivision that relate to laboratory testing or 19584  
hazardous material cleanup. 19585

~~(N)~~(M) "Specified offense" means any of the following: 19586

(1) A felony offense of violence, a violation of section 19587  
2909.04, 2909.081, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 19588  
2909.28, 2909.29, or 2927.24 of the Revised Code, a felony of the 19589  
first degree that is not a violation of any provision in Chapter 19590  
2925. or 3719. of the Revised Code; 19591

(2) An attempt to commit, complicity in committing, or a 19592  
conspiracy to commit an offense listed in division ~~(N)~~(M)(1) of 19593  
this section. 19594

~~(O)~~(N) "Toxic chemical" means any chemical that through its 19595  
chemical action on life processes can cause death or serious 19596  
physical harm to persons or animals, regardless of its origin or 19597  
of its method of production and regardless of whether it is 19598  
produced in facilities, in munitions, or elsewhere. 19599

~~(P)~~ "~~United States department of state terrorist exclusion~~ 19600  
~~list~~" and "~~terrorist exclusion list~~" means the list compiled by 19601  
the United States secretary of state, in consultation with or upon 19602  
the request of the United States attorney general, that designates 19603  
terrorist organizations for immigration purposes. "United States 19604  
department of state terrorist exclusion list" and "terrorist 19605  
exclusion list" also mean the list of terrorist organizations the 19606  
director of public safety prepares pursuant to rules adopted in 19607  
accordance with Chapter 119. of the Revised Code, that is 19608  
comprised of lists of organizations officials of the United States 19609  
government designate as terrorist, including the "terrorist 19610  
exclusion list" described in this division, the list of "foreign 19611  
terrorist organizations" the United States secretary of state 19612  
prepares in consultation with the United States attorney general 19613

~~and the United States secretary of the treasury, and the list of~~ 19614  
~~charities that support terrorist activities, known as "designated~~ 19615  
~~charities," that the United States department of treasury~~ 19616  
~~compiles.~~ 19617

~~(Q)(O)~~ "Hazardous radioactive substance" means any substance 19618  
or item that releases or is designed to release radiation or 19619  
radioactivity at a level dangerous to human life. 19620

**Sec. 2909.28.** (A) No person, with the intent to manufacture a 19621  
chemical weapon, biological weapon, radiological or nuclear 19622  
weapon, or explosive device, shall knowingly assemble or possess 19623  
one or more toxins, toxic chemicals, precursors of toxic 19624  
chemicals, vectors, biological agents, or hazardous radioactive 19625  
substances, ~~including, but not limited to, those listed in rules~~ 19626  
~~the director of public safety adopts,~~ that may be used to 19627  
manufacture a chemical weapon, biological weapon, radiological or 19628  
nuclear weapon, or explosive device. 19629

(B) In a prosecution under this section, it is not necessary 19630  
to allege or prove that the offender assembled or possessed all 19631  
chemicals or substances necessary to manufacture a chemical 19632  
weapon, biological weapon, radiological or nuclear weapon, or 19633  
explosive device. The assembly or possession of a single chemical 19634  
or substance, with the intent to use that chemical or substance in 19635  
the manufacture of a chemical weapon, biological weapon, 19636  
radiological or nuclear weapon, or explosive device, is sufficient 19637  
to violate this section. 19638

(C) Whoever violates this section is guilty of illegal 19639  
assembly or possession of chemicals or substances for the 19640  
manufacture of a chemical weapon, biological weapon, radiological 19641  
or nuclear weapon, or explosive device, which is a felony of the 19642  
fourth degree. 19643

(D) This section does not apply when the items described in 19644

division (A) of this section are assembled or possessed for a 19645  
purpose related to the performance of official duties related to 19646  
any military purpose of the United States and any law enforcement 19647  
purpose, including any domestic riot control purpose. 19648

**Sec. 2927.023.** (A) As used in this section ~~"authorized:~~ 19649

(1) "Authorized recipient of tobacco products" means a person 19650  
who is: 19651

~~(1)~~(a) Licensed as a cigarette wholesale dealer under section 19652  
5743.15 of the Revised Code; 19653

~~(2)~~(b) Licensed as a retail dealer as long as the person 19654  
purchases cigarettes with the appropriate tax stamp affixed; 19655

~~(3)~~(c) An export warehouse proprietor as defined in section 19656  
5702 of the Internal Revenue Code; 19657

~~(4)~~(d) An operator of a customs bonded warehouse under 19 19658  
U.S.C. 1311 or 19 U.S.C. 1555; 19659

~~(5)~~(e) An officer, employee, or agent of the federal 19660  
government or of this state acting in the person's official 19661  
capacity; 19662

~~(6)~~(f) A department, agency, instrumentality, or political 19663  
subdivision of the federal government or of this state; 19664

~~(7)~~(g) A person having a consent for consumer shipment issued 19665  
by the tax commissioner under section 5743.71 of the Revised Code. 19666

(2) "Motor carrier" has the same meaning as in section 19667  
4923.01 of the Revised Code. 19668

The purpose of this section is to prevent the sale of 19669  
cigarettes to minors and to ensure compliance with the Master 19670  
Settlement Agreement, as defined in section 1346.01 of the Revised 19671  
Code. 19672

(B)(1) No person shall cause to be shipped any cigarettes to 19673

any person in this state other than an authorized recipient of 19674  
tobacco products. 19675

(2) No ~~common carrier, contract~~ motor carrier, or other 19676  
person shall knowingly transport cigarettes to any person in this 19677  
state that the carrier or other person reasonably believes is not 19678  
an authorized recipient of tobacco products. If cigarettes are 19679  
transported to a home or residence, it shall be presumed that the 19680  
~~common carrier, contract~~ motor carrier, or other person knew that 19681  
the person to whom the cigarettes were delivered was not an 19682  
authorized recipient of tobacco products. 19683

(C) No person engaged in the business of selling cigarettes 19684  
who ships or causes to be shipped cigarettes to any person in this 19685  
state in any container or wrapping other than the original 19686  
container or wrapping of the cigarettes shall fail to plainly and 19687  
visibly mark the exterior of the container or wrapping in which 19688  
the cigarettes are shipped with the words "cigarettes." 19689

(D) A court shall impose a fine of up to one thousand dollars 19690  
for each violation of division (B)(1), (B)(2), or (C) of this 19691  
section. 19692

**Sec. 2929.01.** As used in this chapter: 19693

(A)(1) "Alternative residential facility" means, subject to 19694  
division (A)(2) of this section, any facility other than an 19695  
offender's home or residence in which an offender is assigned to 19696  
live and that satisfies all of the following criteria: 19697

(a) It provides programs through which the offender may seek 19698  
or maintain employment or may receive education, training, 19699  
treatment, or habilitation. 19700

(b) It has received the appropriate license or certificate 19701  
for any specialized education, training, treatment, habilitation, 19702  
or other service that it provides from the government agency that 19703

is responsible for licensing or certifying that type of education, 19704  
training, treatment, habilitation, or service. 19705

(2) "Alternative residential facility" does not include a 19706  
community-based correctional facility, jail, halfway house, or 19707  
prison. 19708

(B) "Basic probation supervision" means a requirement that 19709  
the offender maintain contact with a person appointed to supervise 19710  
the offender in accordance with sanctions imposed by the court or 19711  
imposed by the parole board pursuant to section 2967.28 of the 19712  
Revised Code. "Basic probation supervision" includes basic parole 19713  
supervision and basic post-release control supervision. 19714

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have the 19715  
same meanings as in section 2925.01 of the Revised Code. 19716

(D) "Community-based correctional facility" means a 19717  
community-based correctional facility and program or district 19718  
community-based correctional facility and program developed 19719  
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 19720

(E) "Community control sanction" means a sanction that is not 19721  
a prison term and that is described in section 2929.15, 2929.16, 19722  
2929.17, or 2929.18 of the Revised Code or a sanction that is not 19723  
a jail term and that is described in section 2929.26, 2929.27, or 19724  
2929.28 of the Revised Code. "Community control sanction" includes 19725  
probation if the sentence involved was imposed for a felony that 19726  
was committed prior to July 1, 1996, or if the sentence involved 19727  
was imposed for a misdemeanor that was committed prior to January 19728  
1, 2004. 19729

(F) "Controlled substance," "marihuana," "schedule I," and 19730  
"schedule II" have the same meanings as in section 3719.01 of the 19731  
Revised Code. 19732

(G) "Curfew" means a requirement that an offender during a 19733  
specified period of time be at a designated place. 19734

(H) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center.

(I) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(J) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs.

(K) "Drug treatment program" means any program under which a person undergoes assessment and treatment designed to reduce or completely eliminate the person's physical or emotional reliance upon alcohol, another drug, or alcohol and another drug and under which the person may be required to receive assessment and treatment on an outpatient basis or may be required to reside at a facility other than the person's home or residence while undergoing assessment and treatment.

(L) "Economic loss" means any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense and includes any loss of income due to lost time at work because of any injury caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result of the commission of the offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(M) "Education or training" includes study at, or in conjunction with a program offered by, a university, college, or technical college or vocational study and also includes the completion of primary school, secondary school, and literacy curricula or their equivalent.

(N) "Firearm" has the same meaning as in section 2923.11 of the Revised Code. 19766  
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(O) "Halfway house" means a facility licensed by the division of parole and community services of the department of rehabilitation and correction pursuant to section 2967.14 of the Revised Code as a suitable facility for the care and treatment of adult offenders. 19768  
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(P) "House arrest" means a period of confinement of an offender that is in the offender's home or in other premises specified by the sentencing court or by the parole board pursuant to section 2967.28 of the Revised Code and during which all of the following apply: 19773  
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(1) The offender is required to remain in the offender's home or other specified premises for the specified period of confinement, except for periods of time during which the offender is at the offender's place of employment or at other premises as authorized by the sentencing court or by the parole board. 19778  
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(2) The offender is required to report periodically to a person designated by the court or parole board. 19783  
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(3) The offender is subject to any other restrictions and requirements that may be imposed by the sentencing court or by the parole board. 19785  
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(Q) "Intensive probation supervision" means a requirement that an offender maintain frequent contact with a person appointed by the court, or by the parole board pursuant to section 2967.28 of the Revised Code, to supervise the offender while the offender is seeking or maintaining necessary employment and participating in training, education, and treatment programs as required in the court's or parole board's order. "Intensive probation supervision" includes intensive parole supervision and intensive post-release control supervision. 19788  
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(R) "Jail" means a jail, workhouse, minimum security jail, or 19797  
other residential facility used for the confinement of alleged or 19798  
convicted offenders that is operated by a political subdivision or 19799  
a combination of political subdivisions of this state. 19800

(S) "Jail term" means the term in a jail that a sentencing 19801  
court imposes or is authorized to impose pursuant to section 19802  
2929.24 or 2929.25 of the Revised Code or pursuant to any other 19803  
provision of the Revised Code that authorizes a term in a jail for 19804  
a misdemeanor conviction. 19805

(T) "Mandatory jail term" means the term in a jail that a 19806  
sentencing court is required to impose pursuant to division (G) of 19807  
section 1547.99 of the Revised Code, division (E) of section 19808  
2903.06 or division (D) of section 2903.08 of the Revised Code, 19809  
division (E) or (G) of section 2929.24 of the Revised Code, 19810  
division (B) of section 4510.14 of the Revised Code, or division 19811  
(G) of section 4511.19 of the Revised Code or pursuant to any 19812  
other provision of the Revised Code that requires a term in a jail 19813  
for a misdemeanor conviction. 19814

(U) "Delinquent child" has the same meaning as in section 19815  
2152.02 of the Revised Code. 19816

(V) "License violation report" means a report that is made by 19817  
a sentencing court, or by the parole board pursuant to section 19818  
2967.28 of the Revised Code, to the regulatory or licensing board 19819  
or agency that issued an offender a professional license or a 19820  
license or permit to do business in this state and that specifies 19821  
that the offender has been convicted of or pleaded guilty to an 19822  
offense that may violate the conditions under which the offender's 19823  
professional license or license or permit to do business in this 19824  
state was granted or an offense for which the offender's 19825  
professional license or license or permit to do business in this 19826  
state may be revoked or suspended. 19827

(W) "Major drug offender" means an offender who is convicted 19828  
of or pleads guilty to the possession of, sale of, or offer to 19829  
sell any drug, compound, mixture, preparation, or substance that 19830  
consists of or contains at least one thousand grams of hashish; at 19831  
least one hundred grams of cocaine; at least two thousand five 19832  
hundred unit doses or two hundred fifty grams of heroin; at least 19833  
five thousand unit doses of L.S.D. or five hundred grams of L.S.D. 19834  
in a liquid concentrate, liquid extract, or liquid distillate 19835  
form; or at least one hundred times the amount of any other 19836  
schedule I or II controlled substance other than marihuana that is 19837  
necessary to commit a felony of the third degree pursuant to 19838  
section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code 19839  
that is based on the possession of, sale of, or offer to sell the 19840  
controlled substance. 19841

(X) "Mandatory prison term" means any of the following: 19842

(1) Subject to division (X)(2) of this section, the term in 19843  
prison that must be imposed for the offenses or circumstances set 19844  
forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 19845  
2929.13 and division (B) of section 2929.14 of the Revised Code. 19846  
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 19847  
and 2925.11 of the Revised Code, unless the maximum or another 19848  
specific term is required under section 2929.14 or 2929.142 of the 19849  
Revised Code, a mandatory prison term described in this division 19850  
may be any prison term authorized for the level of offense. 19851

(2) The term of sixty or one hundred twenty days in prison 19852  
that a sentencing court is required to impose for a third or 19853  
fourth degree felony OVI offense pursuant to division (G)(2) of 19854  
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 19855  
of the Revised Code or the term of one, two, three, four, or five 19856  
years in prison that a sentencing court is required to impose 19857  
pursuant to division (G)(2) of section 2929.13 of the Revised 19858  
Code. 19859

(3) The term in prison imposed pursuant to division (A) of section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code or pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code.

(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 19890  
first or second degree; 19891

(b) An offense under an existing or former law of this state, 19892  
another state, or the United States that is or was substantially 19893  
equivalent to an offense described in division (CC)(1)(a) of this 19894  
section. 19895

(2) The person previously was convicted of or pleaded guilty 19896  
to an offense described in division (CC)(1)(a) or (b) of this 19897  
section. 19898

(DD) "Sanction" means any penalty imposed upon an offender 19899  
who is convicted of or pleads guilty to an offense, as punishment 19900  
for the offense. "Sanction" includes any sanction imposed pursuant 19901  
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 19902  
2929.28 of the Revised Code. 19903

(EE) "Sentence" means the sanction or combination of 19904  
sanctions imposed by the sentencing court on an offender who is 19905  
convicted of or pleads guilty to an offense. 19906

(FF) "Stated prison term" means the prison term, mandatory 19907  
prison term, or combination of all prison terms and mandatory 19908  
prison terms imposed by the sentencing court pursuant to section 19909  
2929.14, 2929.142, or 2971.03 of the Revised Code or under section 19910  
2919.25 of the Revised Code. "Stated prison term" includes any 19911  
credit received by the offender for time spent in jail awaiting 19912  
trial, sentencing, or transfer to prison for the offense and any 19913  
time spent under house arrest or house arrest with electronic 19914  
monitoring imposed after earning credits pursuant to section 19915  
2967.193 of the Revised Code. If an offender is serving a prison 19916  
term as a risk reduction sentence under sections 2929.143 and 19917  
5120.036 of the Revised Code, "stated prison term" includes any 19918  
period of time by which the prison term imposed upon the offender 19919  
is shortened by the offender's successful completion of all 19920

assessment and treatment or programming pursuant to those 19921  
sections. 19922

(GG) "Victim-offender mediation" means a reconciliation or 19923  
mediation program that involves an offender and the victim of the 19924  
offense committed by the offender and that includes a meeting in 19925  
which the offender and the victim may discuss the offense, discuss 19926  
restitution, and consider other sanctions for the offense. 19927

(HH) "Fourth degree felony OVI offense" means a violation of 19928  
division (A) of section 4511.19 of the Revised Code that, under 19929  
division (G) of that section, is a felony of the fourth degree. 19930

(II) "Mandatory term of local incarceration" means the term 19931  
of sixty or one hundred twenty days in a jail, a community-based 19932  
correctional facility, a halfway house, or an alternative 19933  
residential facility that a sentencing court may impose upon a 19934  
person who is convicted of or pleads guilty to a fourth degree 19935  
felony OVI offense pursuant to division (G)(1) of section 2929.13 19936  
of the Revised Code and division (G)(1)(d) or (e) of section 19937  
4511.19 of the Revised Code. 19938

(JJ) "Designated homicide, assault, or kidnapping offense," 19939  
"violent sex offense," "sexual motivation specification," 19940  
"sexually violent offense," "sexually violent predator," and 19941  
"sexually violent predator specification" have the same meanings 19942  
as in section 2971.01 of the Revised Code. 19943

(KK) "Sexually oriented offense," "child-victim oriented 19944  
offense," and "tier III sex offender/child-victim offender<sub>7</sub>" have 19945  
the same meanings as in section 2950.01 of the Revised Code. 19946

(LL) An offense is "committed in the vicinity of a child" if 19947  
the offender commits the offense within thirty feet of or within 19948  
the same residential unit as a child who is under eighteen years 19949  
of age, regardless of whether the offender knows the age of the 19950  
child or whether the offender knows the offense is being committed 19951

within thirty feet of or within the same residential unit as the 19952  
child and regardless of whether the child actually views the 19953  
commission of the offense. 19954

(MM) "Family or household member" has the same meaning as in 19955  
section 2919.25 of the Revised Code. 19956

(NN) "Motor vehicle" and "manufactured home" have the same 19957  
meanings as in section 4501.01 of the Revised Code. 19958

(OO) "Detention" and "detention facility" have the same 19959  
meanings as in section 2921.01 of the Revised Code. 19960

(PP) "Third degree felony OVI offense" means a violation of 19961  
division (A) of section 4511.19 of the Revised Code that, under 19962  
division (G) of that section, is a felony of the third degree. 19963

(QQ) "Random drug testing" has the same meaning as in section 19964  
5120.63 of the Revised Code. 19965

(RR) "Felony sex offense" has the same meaning as in section 19966  
2967.28 of the Revised Code. 19967

(SS) "Body armor" has the same meaning as in section 19968  
2941.1411 of the Revised Code. 19969

(TT) "Electronic monitoring" means monitoring through the use 19970  
of an electronic monitoring device. 19971

(UU) "Electronic monitoring device" means any of the 19972  
following: 19973

(1) Any device that can be operated by electrical or battery 19974  
power and that conforms with all of the following: 19975

(a) The device has a transmitter that can be attached to a 19976  
person, that will transmit a specified signal to a receiver of the 19977  
type described in division (UU)(1)(b) of this section if the 19978  
transmitter is removed from the person, turned off, or altered in 19979  
any manner without prior court approval in relation to electronic 19980  
monitoring or without prior approval of the department of 19981

rehabilitation and correction in relation to the use of an 19982  
electronic monitoring device for an inmate on transitional control 19983  
or otherwise is tampered with, that can transmit continuously and 19984  
periodically a signal to that receiver when the person is within a 19985  
specified distance from the receiver, and that can transmit an 19986  
appropriate signal to that receiver if the person to whom it is 19987  
attached travels a specified distance from that receiver. 19988

(b) The device has a receiver that can receive continuously 19989  
the signals transmitted by a transmitter of the type described in 19990  
division (UU)(1)(a) of this section, can transmit continuously 19991  
those signals by a wireless or landline telephone connection to a 19992  
central monitoring computer of the type described in division 19993  
(UU)(1)(c) of this section, and can transmit continuously an 19994  
appropriate signal to that central monitoring computer if the 19995  
device has been turned off or altered without prior court approval 19996  
or otherwise tampered with. The device is designed specifically 19997  
for use in electronic monitoring, is not a converted wireless 19998  
phone or another tracking device that is clearly not designed for 19999  
electronic monitoring, and provides a means of text-based or voice 20000  
communication with the person. 20001

(c) The device has a central monitoring computer that can 20002  
receive continuously the signals transmitted by a wireless or 20003  
landline telephone connection by a receiver of the type described 20004  
in division (UU)(1)(b) of this section and can monitor 20005  
continuously the person to whom an electronic monitoring device of 20006  
the type described in division (UU)(1)(a) of this section is 20007  
attached. 20008

(2) Any device that is not a device of the type described in 20009  
division (UU)(1) of this section and that conforms with all of the 20010  
following: 20011

(a) The device includes a transmitter and receiver that can 20012  
monitor and determine the location of a subject person at any 20013

time, or at a designated point in time, through the use of a 20014  
central monitoring computer or through other electronic means. 20015

(b) The device includes a transmitter and receiver that can 20016  
determine at any time, or at a designated point in time, through 20017  
the use of a central monitoring computer or other electronic means 20018  
the fact that the transmitter is turned off or altered in any 20019  
manner without prior approval of the court in relation to the 20020  
electronic monitoring or without prior approval of the department 20021  
of rehabilitation and correction in relation to the use of an 20022  
electronic monitoring device for an inmate on transitional control 20023  
or otherwise is tampered with. 20024

(3) Any type of technology that can adequately track or 20025  
determine the location of a subject person at any time and that is 20026  
approved by the director of rehabilitation and correction, 20027  
including, but not limited to, any satellite technology, voice 20028  
tracking system, or retinal scanning system that is so approved. 20029

(VV) "Non-economic loss" means nonpecuniary harm suffered by 20030  
a victim of an offense as a result of or related to the commission 20031  
of the offense, including, but not limited to, pain and suffering; 20032  
loss of society, consortium, companionship, care, assistance, 20033  
attention, protection, advice, guidance, counsel, instruction, 20034  
training, or education; mental anguish; and any other intangible 20035  
loss. 20036

(WW) "Prosecutor" has the same meaning as in section 2935.01 20037  
of the Revised Code. 20038

(XX) "Continuous alcohol monitoring" means the ability to 20039  
automatically test and periodically transmit alcohol consumption 20040  
levels and tamper attempts at least every hour, regardless of the 20041  
location of the person who is being monitored. 20042

(YY) A person is "adjudicated a sexually violent predator" if 20043  
the person is convicted of or pleads guilty to a violent sex 20044

offense and also is convicted of or pleads guilty to a sexually 20045  
violent predator specification that was included in the 20046  
indictment, count in the indictment, or information charging that 20047  
violent sex offense or if the person is convicted of or pleads 20048  
guilty to a designated homicide, assault, or kidnapping offense 20049  
and also is convicted of or pleads guilty to both a sexual 20050  
motivation specification and a sexually violent predator 20051  
specification that were included in the indictment, count in the 20052  
indictment, or information charging that designated homicide, 20053  
assault, or kidnapping offense. 20054

(ZZ) An offense is "committed in proximity to a school" if 20055  
the offender commits the offense in a school safety zone or within 20056  
five hundred feet of any school building or the boundaries of any 20057  
school premises, regardless of whether the offender knows the 20058  
offense is being committed in a school safety zone or within five 20059  
hundred feet of any school building or the boundaries of any 20060  
school premises. 20061

(AAA) "Human trafficking" means a scheme or plan to which all 20062  
of the following apply: 20063

(1) Its object is to subject a victim or victims to 20064  
involuntary servitude, as defined in section 2905.31 of the 20065  
Revised Code, to compel a victim or victims to engage in sexual 20066  
activity for hire, to engage in a performance that is obscene, 20067  
sexually oriented, or nudity oriented, or to be a model or 20068  
participant in the production of material that is obscene, 20069  
sexually oriented, or nudity oriented. 20070

(2) It involves at least two felony offenses, whether or not 20071  
there has been a prior conviction for any of the felony offenses, 20072  
to which all of the following apply: 20073

(a) Each of the felony offenses is a violation of section 20074  
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, division 20075

(A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), 20076  
(4), or (5) of section 2919.22 of the Revised Code or is a 20077  
violation of a law of any state other than this state that is 20078  
substantially similar to any of the sections or divisions of the 20079  
Revised Code identified in this division. 20080

(b) At least one of the felony offenses was committed in this 20081  
state. 20082

(c) The felony offenses are related to the same scheme or 20083  
plan and are not isolated instances. 20084

(BBB) "Material," "nudity," "obscene," "performance," and 20085  
"sexual activity" have the same meanings as in section 2907.01 of 20086  
the Revised Code. 20087

(CCC) "Material that is obscene, sexually oriented, or nudity 20088  
oriented" means any material that is obscene, that shows a person 20089  
participating or engaging in sexual activity, masturbation, or 20090  
bestiality, or that shows a person in a state of nudity. 20091

(DDD) "Performance that is obscene, sexually oriented, or 20092  
nudity oriented" means any performance that is obscene, that shows 20093  
a person participating or engaging in sexual activity, 20094  
masturbation, or bestiality, or that shows a person in a state of 20095  
nudity. 20096

**Sec. 2929.19.** (A) The court shall hold a sentencing hearing 20097  
before imposing a sentence under this chapter upon an offender who 20098  
was convicted of or pleaded guilty to a felony and before 20099  
resentencing an offender who was convicted of or pleaded guilty to 20100  
a felony and whose case was remanded pursuant to section 2953.07 20101  
or 2953.08 of the Revised Code. At the hearing, the offender, the 20102  
prosecuting attorney, the victim or the victim's representative in 20103  
accordance with section 2930.14 of the Revised Code, and, with the 20104  
approval of the court, any other person may present information 20105

relevant to the imposition of sentence in the case. The court 20106  
shall inform the offender of the verdict of the jury or finding of 20107  
the court and ask the offender whether the offender has anything 20108  
to say as to why sentence should not be imposed upon the offender. 20109

(B)(1) At the sentencing hearing, the court, before imposing 20110  
sentence, shall consider the record, any information presented at 20111  
the hearing by any person pursuant to division (A) of this 20112  
section, and, if one was prepared, the presentence investigation 20113  
report made pursuant to section 2951.03 of the Revised Code or 20114  
Criminal Rule 32.2, and any victim impact statement made pursuant 20115  
to section 2947.051 of the Revised Code. 20116

(2) Subject to division (B)(3) of this section, if the 20117  
sentencing court determines at the sentencing hearing that a 20118  
prison term is necessary or required, the court shall do all of 20119  
the following: 20120

(a) Impose a stated prison term and, if the court imposes a 20121  
mandatory prison term, notify the offender that the prison term is 20122  
a mandatory prison term; 20123

(b) In addition to any other information, include in the 20124  
sentencing entry the name and section reference to the offense or 20125  
offenses, the sentence or sentences imposed and whether the 20126  
sentence or sentences contain mandatory prison terms, if sentences 20127  
are imposed for multiple counts whether the sentences are to be 20128  
served concurrently or consecutively, and the name and section 20129  
reference of any specification or specifications for which 20130  
sentence is imposed and the sentence or sentences imposed for the 20131  
specification or specifications; 20132

(c) Notify the offender that the offender will be supervised 20133  
under section 2967.28 of the Revised Code after the offender 20134  
leaves prison if the offender is being sentenced for a felony of 20135  
the first degree or second degree, for a felony sex offense, or 20136

for a felony of the third degree that is not a felony sex offense 20137  
and in the commission of which the offender caused or threatened 20138  
to cause physical harm to a person. This division applies with 20139  
respect to all prison terms imposed for an offense of a type 20140  
described in this division, including a term imposed for any such 20141  
offense that is a risk reduction sentence, as defined in section 20142  
2967.28 of the Revised Code. If a court imposes a sentence 20143  
including a prison term of a type described in division (B)(2)(c) 20144  
of this section on or after July 11, 2006, the failure of a court 20145  
to notify the offender pursuant to division (B)(2)(c) of this 20146  
section that the offender will be supervised under section 2967.28 20147  
of the Revised Code after the offender leaves prison or to include 20148  
in the judgment of conviction entered on the journal a statement 20149  
to that effect does not negate, limit, or otherwise affect the 20150  
mandatory period of supervision that is required for the offender 20151  
under division (B) of section 2967.28 of the Revised Code. Section 20152  
2929.191 of the Revised Code applies if, prior to July 11, 2006, a 20153  
court imposed a sentence including a prison term of a type 20154  
described in division (B)(2)(c) of this section and failed to 20155  
notify the offender pursuant to division (B)(2)(c) of this section 20156  
regarding post-release control or to include in the judgment of 20157  
conviction entered on the journal or in the sentence a statement 20158  
regarding post-release control. 20159

(d) Notify the offender that the offender may be supervised 20160  
under section 2967.28 of the Revised Code after the offender 20161  
leaves prison if the offender is being sentenced for a felony of 20162  
the third, fourth, or fifth degree that is not subject to division 20163  
(B)(2)(c) of this section. This division applies with respect to 20164  
all prison terms imposed for an offense of a type described in 20165  
this division, including a term imposed for any such offense that 20166  
is a risk reduction sentence, as defined in section 2967.28 of the 20167  
Revised Code. Section 2929.191 of the Revised Code applies if, 20168  
prior to July 11, 2006, a court imposed a sentence including a 20169

prison term of a type described in division (B)(2)(d) of this 20170  
section and failed to notify the offender pursuant to division 20171  
(B)(2)(d) of this section regarding post-release control or to 20172  
include in the judgment of conviction entered on the journal or in 20173  
the sentence a statement regarding post-release control. 20174

(e) Notify the offender that, if a period of supervision is 20175  
imposed following the offender's release from prison, as described 20176  
in division (B)(2)(c) or (d) of this section, and if the offender 20177  
violates that supervision or a condition of post-release control 20178  
imposed under division (B) of section 2967.131 of the Revised 20179  
Code, the parole board may impose a prison term, as part of the 20180  
sentence, of up to one-half of the stated prison term originally 20181  
imposed upon the offender. If a court imposes a sentence including 20182  
a prison term on or after July 11, 2006, the failure of a court to 20183  
notify the offender pursuant to division (B)(2)(e) of this section 20184  
that the parole board may impose a prison term as described in 20185  
division (B)(2)(e) of this section for a violation of that 20186  
supervision or a condition of post-release control imposed under 20187  
division (B) of section 2967.131 of the Revised Code or to include 20188  
in the judgment of conviction entered on the journal a statement 20189  
to that effect does not negate, limit, or otherwise affect the 20190  
authority of the parole board to so impose a prison term for a 20191  
violation of that nature if, pursuant to division (D)(1) of 20192  
section 2967.28 of the Revised Code, the parole board notifies the 20193  
offender prior to the offender's release of the board's authority 20194  
to so impose a prison term. Section 2929.191 of the Revised Code 20195  
applies if, prior to July 11, 2006, a court imposed a sentence 20196  
including a prison term and failed to notify the offender pursuant 20197  
to division (B)(2)(e) of this section regarding the possibility of 20198  
the parole board imposing a prison term for a violation of 20199  
supervision or a condition of post-release control. 20200

(f) Require that the offender not ingest or be injected with 20201

a drug of abuse and submit to random drug testing as provided in 20202  
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 20203  
is applicable to the offender who is serving a prison term, and 20204  
require that the results of the drug test administered under any 20205  
of those sections indicate that the offender did not ingest or was 20206  
not injected with a drug of abuse. 20207

(g) Include in the offender's sentence a statement notifying 20208  
the offender of the information described in division (F)(3) of 20209  
section 2929.14 of the Revised Code regarding earned credits under 20210  
section 2967.193 of the Revised Code. 20211

(h)(i) Determine, notify the offender of, and include in the 20212  
sentencing entry the number of days that the offender has been 20213  
confined for any reason arising out of the offense for which the 20214  
offender is being sentenced and by which the department of 20215  
rehabilitation and correction must reduce the stated prison term 20216  
under section 2967.191 of the Revised Code. The court's 20217  
calculation shall not include the number of days, if any, that the 20218  
offender previously served in the custody of the department of 20219  
rehabilitation and correction arising out of the offense for which 20220  
the prisoner was convicted and sentenced. 20221

(ii) In making a determination under division (B)(2)(h)(i) of 20222  
this section, the court shall consider the arguments of the 20223  
parties and conduct a hearing if one is requested. 20224

(iii) The sentencing court retains continuing jurisdiction to 20225  
correct any error not previously raised at sentencing in making a 20226  
determination under division (B)(2)(h)(i) of this section. The 20227  
offender may, at any time after sentencing, file a motion in the 20228  
sentencing court to correct any error made in making a 20229  
determination under division (B)(2)(h)(i) of this section, and the 20230  
court may in its discretion grant or deny that motion. If the 20231  
court changes the number of days in its determination or 20232  
redetermination, the court shall cause the entry granting that 20233

change to be delivered to the department of rehabilitation and 20234  
correction without delay. Sections 2931.15 and 2953.21 of the 20235  
Revised Code do not apply to a motion made under this section. 20236

(iv) An inaccurate determination under division (B)(2)(h)(i) 20237  
of this section is not grounds for setting aside the offender's 20238  
conviction or sentence and does not otherwise render the sentence 20239  
void or voidable. 20240

(3)(a) The court shall include in the offender's sentence a 20241  
statement that the offender is a tier III sex 20242  
offender/child-victim offender, and the court shall comply with 20243  
the requirements of section 2950.03 of the Revised Code if any of 20244  
the following apply: 20245

(i) The offender is being sentenced for a violent sex offense 20246  
or designated homicide, assault, or kidnapping offense that the 20247  
offender committed on or after January 1, 1997, and the offender 20248  
is adjudicated a sexually violent predator in relation to that 20249  
offense. 20250

(ii) The offender is being sentenced for a sexually oriented 20251  
offense that the offender committed on or after January 1, 1997, 20252  
and the offender is a tier III sex offender/child-victim offender 20253  
relative to that offense. 20254

(iii) The offender is being sentenced on or after July 31, 20255  
2003, for a child-victim oriented offense, and the offender is a 20256  
tier III sex offender/child-victim offender relative to that 20257  
offense. 20258

(iv) The offender is being sentenced under section 2971.03 of 20259  
the Revised Code for a violation of division (A)(1)(b) of section 20260  
2907.02 of the Revised Code committed on or after January 2, 2007. 20261

(v) The offender is sentenced to a term of life without 20262  
parole under division (B) of section 2907.02 of the Revised Code. 20263

(vi) The offender is being sentenced for attempted rape 20264  
committed on or after January 2, 2007, and a specification of the 20265  
type described in section 2941.1418, 2941.1419, or 2941.1420 of 20266  
the Revised Code. 20267

(vii) The offender is being sentenced under division 20268  
(B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code 20269  
for an offense described in those divisions committed on or after 20270  
January 1, 2008. 20271

(b) Additionally, if any criterion set forth in divisions 20272  
(B)(3)(a)(i) to (vii) of this section is satisfied, in the 20273  
circumstances described in division (E) of section 2929.14 of the 20274  
Revised Code, the court shall impose sentence on the offender as 20275  
described in that division. 20276

(4) If the sentencing court determines at the sentencing 20277  
hearing that a community control sanction should be imposed and 20278  
the court is not prohibited from imposing a community control 20279  
sanction, the court shall impose a community control sanction. The 20280  
court shall notify the offender that, if the conditions of the 20281  
sanction are violated, if the offender commits a violation of any 20282  
law, or if the offender leaves this state without the permission 20283  
of the court or the offender's probation officer, the court may 20284  
impose a longer time under the same sanction, may impose a more 20285  
restrictive sanction, or may impose a prison term on the offender 20286  
and shall indicate the specific prison term that may be imposed as 20287  
a sanction for the violation, as selected by the court from the 20288  
range of prison terms for the offense pursuant to section 2929.14 20289  
of the Revised Code. 20290

(5) Before imposing a financial sanction under section 20291  
2929.18 of the Revised Code or a fine under section 2929.32 of the 20292  
Revised Code, the court shall consider the offender's present and 20293  
future ability to pay the amount of the sanction or fine. 20294

(6) If the sentencing court sentences the offender to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a local detention facility, as defined in section 2929.36 of the Revised Code, and if the local detention facility is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(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 20326  
corrected entry to the offender and the department of 20327  
rehabilitation and correction, or, at the request of the state, 20328  
the court shall complete a corrected journal entry and send copies 20329  
of the corrected entry to the offender and department of 20330  
rehabilitation and correction. 20331

(C)(1) If the offender is being sentenced for a fourth degree 20332  
felony OVI offense under division (G)(1) of section 2929.13 of the 20333  
Revised Code, the court shall impose the mandatory term of local 20334  
incarceration in accordance with that division, shall impose a 20335  
mandatory fine in accordance with division (B)(3) of section 20336  
2929.18 of the Revised Code, and, in addition, may impose 20337  
additional sanctions as specified in sections 2929.15, 2929.16, 20338  
2929.17, and 2929.18 of the Revised Code. The court shall not 20339  
impose a prison term on the offender except that the court may 20340  
impose a prison term upon the offender as provided in division 20341  
(A)(1) of section 2929.13 of the Revised Code. 20342

(2) If the offender is being sentenced for a third or fourth 20343  
degree felony OVI offense under division (G)(2) of section 2929.13 20344  
of the Revised Code, the court shall impose the mandatory prison 20345  
term in accordance with that division, shall impose a mandatory 20346  
fine in accordance with division (B)(3) of section 2929.18 of the 20347  
Revised Code, and, in addition, may impose an additional prison 20348  
term as specified in section 2929.14 of the Revised Code. In 20349  
addition to the mandatory prison term or mandatory prison term and 20350  
additional prison term the court imposes, the court also may 20351  
impose a community control sanction on the offender, but the 20352  
offender shall serve all of the prison terms so imposed prior to 20353  
serving the community control sanction. 20354

(D) The sentencing court, pursuant to division (I)(1) of 20355  
section 2929.14 of the Revised Code, may recommend placement of 20356  
the offender in a program of shock incarceration under section 20357

5120.031 of the Revised Code or an intensive program prison under 20358  
section 5120.032 of the Revised Code, disapprove placement of the 20359  
offender in a program or prison of that nature, or make no 20360  
recommendation. If the court recommends or disapproves placement, 20361  
it shall make a finding that gives its reasons for its 20362  
recommendation or disapproval. 20363

**Sec. 2935.01.** As used in this chapter: 20364

(A) "Magistrate" has the same meaning as in section 2931.01 20365  
of the Revised Code. 20366

(B) "Peace officer" includes, except as provided in section 20367  
2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; 20368  
deputy marshal; member of the organized police department of any 20369  
municipal corporation, including a member of the organized police 20370  
department of a municipal corporation in an adjoining state 20371  
serving in Ohio under a contract pursuant to section 737.04 of the 20372  
Revised Code; member of a police force employed by a metropolitan 20373  
housing authority under division (D) of section 3735.31 of the 20374  
Revised Code; member of a police force employed by a regional 20375  
transit authority under division (Y) of section 306.05 of the 20376  
Revised Code; state university law enforcement officer appointed 20377  
under section 3345.04 of the Revised Code; enforcement agent of 20378  
the department of public safety designated under section 5502.14 20379  
of the Revised Code; employee of the department of taxation to 20380  
whom investigation powers have been delegated under section 20381  
5743.45 of the Revised Code; employee of the department of natural 20382  
resources who is a natural resources law enforcement staff officer 20383  
designated pursuant to section 1501.013 of the Revised Code, a 20384  
forest officer designated pursuant to section 1503.29 of the 20385  
Revised Code, a preserve officer designated pursuant to section 20386  
1517.10 of the Revised Code, a wildlife officer designated 20387  
pursuant to section 1531.13 of the Revised Code, a park officer 20388

designated pursuant to section 1541.10 of the Revised Code, or a 20389  
state watercraft officer designated pursuant to section 1547.521 20390  
of the Revised Code; individual designated to perform law 20391  
enforcement duties under section 511.232, 1545.13, or 6101.75 of 20392  
the Revised Code; veterans' home police officer appointed under 20393  
section 5907.02 of the Revised Code; special police officer 20394  
employed by a port authority under section 4582.04 or 4582.28 of 20395  
the Revised Code; police constable of any township; police officer 20396  
of a township or joint police district; a special police officer 20397  
employed by a municipal corporation at a municipal airport, or 20398  
other municipal air navigation facility, that has scheduled 20399  
operations, as defined in section 119.3 of Title 14 of the Code of 20400  
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 20401  
required to be under a security program and is governed by 20402  
aviation security rules of the transportation security 20403  
administration of the United States department of transportation 20404  
as provided in Parts 1542. and 1544. of Title 49 of the Code of 20405  
Federal Regulations, as amended; the house of representatives 20406  
sergeant at arms if the house of representatives sergeant at arms 20407  
has arrest authority pursuant to division (E)(1) of section 20408  
101.311 of the Revised Code; ~~and~~ an assistant house of 20409  
representatives sergeant at arms; the senate sergeant at arms; an 20410  
assistant senate sergeant at arms; officer or employee of the 20411  
bureau of criminal identification and investigation established 20412  
pursuant to section 109.51 of the Revised Code who has been 20413  
awarded a certificate by the executive director of the Ohio peace 20414  
officer training commission attesting to the officer's or 20415  
employee's satisfactory completion of an approved state, county, 20416  
municipal, or department of natural resources peace officer basic 20417  
training program and who is providing assistance upon request to a 20418  
law enforcement officer or emergency assistance to a peace officer 20419  
pursuant to section 109.54 or 109.541 of the Revised Code; a state 20420  
fire marshal law enforcement officer described in division (A)(23) 20421

of section 109.71 of the Revised Code; and, for the purpose of 20422  
arrests within those areas, for the purposes of Chapter 5503. of 20423  
the Revised Code, and the filing of and service of process 20424  
relating to those offenses witnessed or investigated by them, the 20425  
superintendent and troopers of the state highway patrol. 20426

(C) "Prosecutor" includes the county prosecuting attorney and 20427  
any assistant prosecutor designated to assist the county 20428  
prosecuting attorney, and, in the case of courts inferior to 20429  
courts of common pleas, includes the village solicitor, city 20430  
director of law, or similar chief legal officer of a municipal 20431  
corporation, any such officer's assistants, or any attorney 20432  
designated by the prosecuting attorney of the county to appear for 20433  
the prosecution of a given case. 20434

(D) "Offense," except where the context specifically 20435  
indicates otherwise, includes felonies, misdemeanors, and 20436  
violations of ordinances of municipal corporations and other 20437  
public bodies authorized by law to adopt penal regulations. 20438

**Sec. 2935.03.** (A)(1) A sheriff, deputy sheriff, marshal, 20439  
deputy marshal, municipal police officer, township constable, 20440  
police officer of a township or joint police district, member of a 20441  
police force employed by a metropolitan housing authority under 20442  
division (D) of section 3735.31 of the Revised Code, member of a 20443  
police force employed by a regional transit authority under 20444  
division (Y) of section 306.35 of the Revised Code, state 20445  
university law enforcement officer appointed under section 3345.04 20446  
of the Revised Code, veterans' home police officer appointed under 20447  
section 5907.02 of the Revised Code, special police officer 20448  
employed by a port authority under section 4582.04 or 4582.28 of 20449  
the Revised Code, or a special police officer employed by a 20450  
municipal corporation at a municipal airport, or other municipal 20451  
air navigation facility, that has scheduled operations, as defined 20452

in section 119.3 of Title 14 of the Code of Federal Regulations, 20453  
14 C.F.R. 119.3, as amended, and that is required to be under a 20454  
security program and is governed by aviation security rules of the 20455  
transportation security administration of the United States 20456  
department of transportation as provided in Parts 1542. and 1544. 20457  
of Title 49 of the Code of Federal Regulations, as amended, shall 20458  
arrest and detain, until a warrant can be obtained, a person found 20459  
violating, within the limits of the political subdivision, 20460  
metropolitan housing authority housing project, regional transit 20461  
authority facilities or areas of a municipal corporation that have 20462  
been agreed to by a regional transit authority and a municipal 20463  
corporation located within its territorial jurisdiction, college, 20464  
university, veterans' home operated under Chapter 5907. of the 20465  
Revised Code, port authority, or municipal airport or other 20466  
municipal air navigation facility, in which the peace officer is 20467  
appointed, employed, or elected, a law of this state, an ordinance 20468  
of a municipal corporation, or a resolution of a township. 20469

(2) A peace officer of the department of natural resources, a 20470  
state fire marshal law enforcement officer described in division 20471  
(A)(23) of section 109.71 of the Revised Code, or an individual 20472  
designated to perform law enforcement duties under section 20473  
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 20474  
detain, until a warrant can be obtained, a person found violating, 20475  
within the limits of the peace officer's, state fire marshal law 20476  
enforcement officer's, or individual's territorial jurisdiction, a 20477  
law of this state. 20478

(3) The house sergeant at arms, if the house sergeant at arms 20479  
has arrest authority pursuant to division (E)(1) of section 20480  
101.311 of the Revised Code, and an assistant house sergeant at 20481  
arms shall arrest and detain, until a warrant can be obtained, a 20482  
person found violating, within the limits of the sergeant at 20483  
arms's or assistant sergeant at arms's territorial jurisdiction 20484

specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(4) The senate sergeant at arms and an assistant senate sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (B) of section 101.312 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is

appointed, employed, or elected or within the limits of the 20517  
territorial jurisdiction of the peace officer, a peace officer 20518  
described in division (A) of this section may arrest and detain 20519  
until a warrant can be obtained any person who the peace officer 20520  
has reasonable cause to believe is guilty of the violation. 20521

(2) For purposes of division (B)(1) of this section, the 20522  
execution of any of the following constitutes reasonable ground to 20523  
believe that the offense alleged in the statement was committed 20524  
and reasonable cause to believe that the person alleged in the 20525  
statement to have committed the offense is guilty of the 20526  
violation: 20527

(a) A written statement by a person alleging that an alleged 20528  
offender has committed the offense of menacing by stalking or 20529  
aggravated trespass; 20530

(b) A written statement by the administrator of the 20531  
interstate compact on mental health appointed under section 20532  
5119.51 of the Revised Code alleging that a person who had been 20533  
hospitalized, institutionalized, or confined in any facility under 20534  
an order made pursuant to or under authority of section 2945.37, 20535  
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 20536  
Revised Code has escaped from the facility, from confinement in a 20537  
vehicle for transportation to or from the facility, or from 20538  
supervision by an employee of the facility that is incidental to 20539  
hospitalization, institutionalization, or confinement in the 20540  
facility and that occurs outside of the facility, in violation of 20541  
section 2921.34 of the Revised Code; 20542

(c) A written statement by the administrator of any facility 20543  
in which a person has been hospitalized, institutionalized, or 20544  
confined under an order made pursuant to or under authority of 20545  
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 20546  
2945.402 of the Revised Code alleging that the person has escaped 20547  
from the facility, from confinement in a vehicle for 20548

transportation to or from the facility, or from supervision by an 20549  
employee of the facility that is incidental to hospitalization, 20550  
institutionalization, or confinement in the facility and that 20551  
occurs outside of the facility, in violation of section 2921.34 of 20552  
the Revised Code. 20553

(3)(a) For purposes of division (B)(1) of this section, a 20554  
peace officer described in division (A) of this section has 20555  
reasonable grounds to believe that the offense of domestic 20556  
violence or the offense of violating a protection order has been 20557  
committed and reasonable cause to believe that a particular person 20558  
is guilty of committing the offense if any of the following 20559  
occurs: 20560

(i) A person executes a written statement alleging that the 20561  
person in question has committed the offense of domestic violence 20562  
or the offense of violating a protection order against the person 20563  
who executes the statement or against a child of the person who 20564  
executes the statement. 20565

(ii) No written statement of the type described in division 20566  
(B)(3)(a)(i) of this section is executed, but the peace officer, 20567  
based upon the peace officer's own knowledge and observation of 20568  
the facts and circumstances of the alleged incident of the offense 20569  
of domestic violence or the alleged incident of the offense of 20570  
violating a protection order or based upon any other information, 20571  
including, but not limited to, any reasonably trustworthy 20572  
information given to the peace officer by the alleged victim of 20573  
the alleged incident of the offense or any witness of the alleged 20574  
incident of the offense, concludes that there are reasonable 20575  
grounds to believe that the offense of domestic violence or the 20576  
offense of violating a protection order has been committed and 20577  
reasonable cause to believe that the person in question is guilty 20578  
of committing the offense. 20579

(iii) No written statement of the type described in division 20580

(B)(3)(a)(i) of this section is executed, but the peace officer 20581  
witnessed the person in question commit the offense of domestic 20582  
violence or the offense of violating a protection order. 20583

(b) If pursuant to division (B)(3)(a) of this section a peace 20584  
officer has reasonable grounds to believe that the offense of 20585  
domestic violence or the offense of violating a protection order 20586  
has been committed and reasonable cause to believe that a 20587  
particular person is guilty of committing the offense, it is the 20588  
preferred course of action in this state that the officer arrest 20589  
and detain that person pursuant to division (B)(1) of this section 20590  
until a warrant can be obtained. 20591

If pursuant to division (B)(3)(a) of this section a peace 20592  
officer has reasonable grounds to believe that the offense of 20593  
domestic violence or the offense of violating a protection order 20594  
has been committed and reasonable cause to believe that family or 20595  
household members have committed the offense against each other, 20596  
it is the preferred course of action in this state that the 20597  
officer, pursuant to division (B)(1) of this section, arrest and 20598  
detain until a warrant can be obtained the family or household 20599  
member who committed the offense and whom the officer has 20600  
reasonable cause to believe is the primary physical aggressor. 20601  
There is no preferred course of action in this state regarding any 20602  
other family or household member who committed the offense and 20603  
whom the officer does not have reasonable cause to believe is the 20604  
primary physical aggressor, but, pursuant to division (B)(1) of 20605  
this section, the peace officer may arrest and detain until a 20606  
warrant can be obtained any other family or household member who 20607  
committed the offense and whom the officer does not have 20608  
reasonable cause to believe is the primary physical aggressor. 20609

(c) If a peace officer described in division (A) of this 20610  
section does not arrest and detain a person whom the officer has 20611  
reasonable cause to believe committed the offense of domestic 20612

violence or the offense of violating a protection order when it is 20613  
the preferred course of action in this state pursuant to division 20614  
(B)(3)(b) of this section that the officer arrest that person, the 20615  
officer shall articulate in the written report of the incident 20616  
required by section 2935.032 of the Revised Code a clear statement 20617  
of the officer's reasons for not arresting and detaining that 20618  
person until a warrant can be obtained. 20619

(d) In determining for purposes of division (B)(3)(b) of this 20620  
section which family or household member is the primary physical 20621  
aggressor in a situation in which family or household members have 20622  
committed the offense of domestic violence or the offense of 20623  
violating a protection order against each other, a peace officer 20624  
described in division (A) of this section, in addition to any 20625  
other relevant circumstances, should consider all of the 20626  
following: 20627

(i) Any history of domestic violence or of any other violent 20628  
acts by either person involved in the alleged offense that the 20629  
officer reasonably can ascertain; 20630

(ii) If violence is alleged, whether the alleged violence was 20631  
caused by a person acting in self-defense; 20632

(iii) Each person's fear of physical harm, if any, resulting 20633  
from the other person's threatened use of force against any person 20634  
or resulting from the other person's use or history of the use of 20635  
force against any person, and the reasonableness of that fear; 20636

(iv) The comparative severity of any injuries suffered by the 20637  
persons involved in the alleged offense. 20638

(e)(i) A peace officer described in division (A) of this 20639  
section shall not require, as a prerequisite to arresting or 20640  
charging a person who has committed the offense of domestic 20641  
violence or the offense of violating a protection order, that the 20642  
victim of the offense specifically consent to the filing of 20643

charges against the person who has committed the offense or sign a 20644  
complaint against the person who has committed the offense. 20645

(ii) If a person is arrested for or charged with committing 20646  
the offense of domestic violence or the offense of violating a 20647  
protection order and if the victim of the offense does not 20648  
cooperate with the involved law enforcement or prosecuting 20649  
authorities in the prosecution of the offense or, subsequent to 20650  
the arrest or the filing of the charges, informs the involved law 20651  
enforcement or prosecuting authorities that the victim does not 20652  
wish the prosecution of the offense to continue or wishes to drop 20653  
charges against the alleged offender relative to the offense, the 20654  
involved prosecuting authorities, in determining whether to 20655  
continue with the prosecution of the offense or whether to dismiss 20656  
charges against the alleged offender relative to the offense and 20657  
notwithstanding the victim's failure to cooperate or the victim's 20658  
wishes, shall consider all facts and circumstances that are 20659  
relevant to the offense, including, but not limited to, the 20660  
statements and observations of the peace officers who responded to 20661  
the incident that resulted in the arrest or filing of the charges 20662  
and of all witnesses to that incident. 20663

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 20664  
this section whether to arrest a person pursuant to division 20665  
(B)(1) of this section, a peace officer described in division (A) 20666  
of this section shall not consider as a factor any possible 20667  
shortage of cell space at the detention facility to which the 20668  
person will be taken subsequent to the person's arrest or any 20669  
possibility that the person's arrest might cause, contribute to, 20670  
or exacerbate overcrowding at that detention facility or at any 20671  
other detention facility. 20672

(g) If a peace officer described in division (A) of this 20673  
section intends pursuant to divisions (B)(3)(a) to (g) of this 20674  
section to arrest a person pursuant to division (B)(1) of this 20675

section and if the officer is unable to do so because the person 20676  
is not present, the officer promptly shall seek a warrant for the 20677  
arrest of the person. 20678

(h) If a peace officer described in division (A) of this 20679  
section responds to a report of an alleged incident of the offense 20680  
of domestic violence or an alleged incident of the offense of 20681  
violating a protection order and if the circumstances of the 20682  
incident involved the use or threatened use of a deadly weapon or 20683  
any person involved in the incident brandished a deadly weapon 20684  
during or in relation to the incident, the deadly weapon that was 20685  
used, threatened to be used, or brandished constitutes contraband, 20686  
and, to the extent possible, the officer shall seize the deadly 20687  
weapon as contraband pursuant to Chapter 2981. of the Revised 20688  
Code. Upon the seizure of a deadly weapon pursuant to division 20689  
(B)(3)(h) of this section, section 2981.12 of the Revised Code 20690  
shall apply regarding the treatment and disposition of the deadly 20691  
weapon. For purposes of that section, the "underlying criminal 20692  
offense" that was the basis of the seizure of a deadly weapon 20693  
under division (B)(3)(h) of this section and to which the deadly 20694  
weapon had a relationship is any of the following that is 20695  
applicable: 20696

(i) The alleged incident of the offense of domestic violence 20697  
or the alleged incident of the offense of violating a protection 20698  
order to which the officer who seized the deadly weapon responded; 20699

(ii) Any offense that arose out of the same facts and 20700  
circumstances as the report of the alleged incident of the offense 20701  
of domestic violence or the alleged incident of the offense of 20702  
violating a protection order to which the officer who seized the 20703  
deadly weapon responded. 20704

(4) If, in the circumstances described in divisions (B)(3)(a) 20705  
to (g) of this section, a peace officer described in division (A) 20706  
of this section arrests and detains a person pursuant to division 20707

(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 20708  
this section, a peace officer described in division (A) of this 20709  
section seizes a deadly weapon, the officer, to the extent 20710  
described in and in accordance with section 9.86 or 2744.03 of the 20711  
Revised Code, is immune in any civil action for damages for 20712  
injury, death, or loss to person or property that arises from or 20713  
is related to the arrest and detention or the seizure. 20714

(C) When there is reasonable ground to believe that a 20715  
violation of division (A)(1), (2), (3), (4), or (5) of section 20716  
4506.15 or a violation of section 4511.19 of the Revised Code has 20717  
been committed by a person operating a motor vehicle subject to 20718  
regulation by the public utilities commission of Ohio under Title 20719  
XLIX of the Revised Code, a peace officer with authority to 20720  
enforce that provision of law may stop or detain the person whom 20721  
the officer has reasonable cause to believe was operating the 20722  
motor vehicle in violation of the division or section and, after 20723  
investigating the circumstances surrounding the operation of the 20724  
vehicle, may arrest and detain the person. 20725

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 20726  
municipal police officer, member of a police force employed by a 20727  
metropolitan housing authority under division (D) of section 20728  
3735.31 of the Revised Code, member of a police force employed by 20729  
a regional transit authority under division (Y) of section 306.35 20730  
of the Revised Code, special police officer employed by a port 20731  
authority under section 4582.04 or 4582.28 of the Revised Code, 20732  
special police officer employed by a municipal corporation at a 20733  
municipal airport or other municipal air navigation facility 20734  
described in division (A) of this section, township constable, 20735  
police officer of a township or joint police district, state 20736  
university law enforcement officer appointed under section 3345.04 20737  
of the Revised Code, peace officer of the department of natural 20738  
resources, individual designated to perform law enforcement duties 20739

under section 511.232, 1545.13, or 6101.75 of the Revised Code, 20740  
the house sergeant at arms if the house sergeant at arms has 20741  
arrest authority pursuant to division (E)(1) of section 101.311 of 20742  
the Revised Code, or an assistant house sergeant at arms is 20743  
authorized by division (A) or (B) of this section to arrest and 20744  
detain, within the limits of the political subdivision, 20745  
metropolitan housing authority housing project, regional transit 20746  
authority facilities or those areas of a municipal corporation 20747  
that have been agreed to by a regional transit authority and a 20748  
municipal corporation located within its territorial jurisdiction, 20749  
port authority, municipal airport or other municipal air 20750  
navigation facility, college, or university in which the officer 20751  
is appointed, employed, or elected or within the limits of the 20752  
territorial jurisdiction of the peace officer, a person until a 20753  
warrant can be obtained, the peace officer, outside the limits of 20754  
that territory, may pursue, arrest, and detain that person until a 20755  
warrant can be obtained if all of the following apply: 20756

(1) The pursuit takes place without unreasonable delay after 20757  
the offense is committed; 20758

(2) The pursuit is initiated within the limits of the 20759  
political subdivision, metropolitan housing authority housing 20760  
project, regional transit authority facilities or those areas of a 20761  
municipal corporation that have been agreed to by a regional 20762  
transit authority and a municipal corporation located within its 20763  
territorial jurisdiction, port authority, municipal airport or 20764  
other municipal air navigation facility, college, or university in 20765  
which the peace officer is appointed, employed, or elected or 20766  
within the limits of the territorial jurisdiction of the peace 20767  
officer; 20768

(3) The offense involved is a felony, a misdemeanor of the 20769  
first degree or a substantially equivalent municipal ordinance, a 20770  
misdemeanor of the second degree or a substantially equivalent 20771

municipal ordinance, or any offense for which points are 20772  
chargeable pursuant to section 4510.036 of the Revised Code. 20773

(E) In addition to the authority granted under division (A) 20774  
or (B) of this section: 20775

(1) A sheriff or deputy sheriff may arrest and detain, until 20776  
a warrant can be obtained, any person found violating section 20777  
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 20778  
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 20779  
portion of any street or highway that is located immediately 20780  
adjacent to the boundaries of the county in which the sheriff or 20781  
deputy sheriff is elected or appointed. 20782

(2) A member of the police force of a township police 20783  
district created under section 505.48 of the Revised Code, a 20784  
member of the police force of a joint police district created 20785  
under section 505.482 of the Revised Code, or a township constable 20786  
appointed in accordance with section 509.01 of the Revised Code, 20787  
who has received a certificate from the Ohio peace officer 20788  
training commission under section 109.75 of the Revised Code, may 20789  
arrest and detain, until a warrant can be obtained, any person 20790  
found violating any section or chapter of the Revised Code listed 20791  
in division (E)(1) of this section, other than sections 4513.33 20792  
and 4513.34 of the Revised Code, on the portion of any street or 20793  
highway that is located immediately adjacent to the boundaries of 20794  
the township police district or joint police district, in the case 20795  
of a member of a township police district or joint police district 20796  
police force, or the unincorporated territory of the township, in 20797  
the case of a township constable. However, if the population of 20798  
the township that created the township police district served by 20799  
the member's police force, or the townships and municipal 20800  
corporations that created the joint police district served by the 20801  
member's police force, or the township that is served by the 20802  
township constable, is sixty thousand or less, the member of the 20803

township police district or joint police district police force or 20804  
the township constable may not make an arrest under division 20805  
(E)(2) of this section on a state highway that is included as part 20806  
of the interstate system. 20807

(3) A police officer or village marshal appointed, elected, 20808  
or employed by a municipal corporation may arrest and detain, 20809  
until a warrant can be obtained, any person found violating any 20810  
section or chapter of the Revised Code listed in division (E)(1) 20811  
of this section on the portion of any street or highway that is 20812  
located immediately adjacent to the boundaries of the municipal 20813  
corporation in which the police officer or village marshal is 20814  
appointed, elected, or employed. 20815

(4) A peace officer of the department of natural resources, a 20816  
state fire marshal law enforcement officer described in division 20817  
(A)(23) of section 109.71 of the Revised Code, or an individual 20818  
designated to perform law enforcement duties under section 20819  
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 20820  
detain, until a warrant can be obtained, any person found 20821  
violating any section or chapter of the Revised Code listed in 20822  
division (E)(1) of this section, other than sections 4513.33 and 20823  
4513.34 of the Revised Code, on the portion of any street or 20824  
highway that is located immediately adjacent to the boundaries of 20825  
the lands and waters that constitute the territorial jurisdiction 20826  
of the peace officer or state fire marshal law enforcement 20827  
officer. 20828

(F)(1) A department of mental health special police officer 20829  
or a department of developmental disabilities special police 20830  
officer may arrest without a warrant and detain until a warrant 20831  
can be obtained any person found committing on the premises of any 20832  
institution under the jurisdiction of the particular department a 20833  
misdemeanor under a law of the state. 20834

A department of mental health special police officer or a 20835

department of developmental disabilities special police officer 20836  
may arrest without a warrant and detain until a warrant can be 20837  
obtained any person who has been hospitalized, institutionalized, 20838  
or confined in an institution under the jurisdiction of the 20839  
particular department pursuant to or under authority of section 20840  
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 20841  
2945.402 of the Revised Code and who is found committing on the 20842  
premises of any institution under the jurisdiction of the 20843  
particular department a violation of section 2921.34 of the 20844  
Revised Code that involves an escape from the premises of the 20845  
institution. 20846

(2)(a) If a department of mental health special police 20847  
officer or a department of developmental disabilities special 20848  
police officer finds any person who has been hospitalized, 20849  
institutionalized, or confined in an institution under the 20850  
jurisdiction of the particular department pursuant to or under 20851  
authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 20852  
2945.401, or 2945.402 of the Revised Code committing a violation 20853  
of section 2921.34 of the Revised Code that involves an escape 20854  
from the premises of the institution, or if there is reasonable 20855  
ground to believe that a violation of section 2921.34 of the 20856  
Revised Code has been committed that involves an escape from the 20857  
premises of an institution under the jurisdiction of the 20858  
department of mental health or the department of developmental 20859  
disabilities and if a department of mental health special police 20860  
officer or a department of developmental disabilities special 20861  
police officer has reasonable cause to believe that a particular 20862  
person who has been hospitalized, institutionalized, or confined 20863  
in the institution pursuant to or under authority of section 20864  
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 20865  
2945.402 of the Revised Code is guilty of the violation, the 20866  
special police officer, outside of the premises of the 20867  
institution, may pursue, arrest, and detain that person for that 20868

violation of section 2921.34 of the Revised Code, until a warrant  
can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after  
the offense is committed;

(ii) The pursuit is initiated within the premises of the  
institution from which the violation of section 2921.34 of the  
Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the  
execution of a written statement by the administrator of the  
institution in which a person had been hospitalized,  
institutionalized, or confined pursuant to or under authority of  
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or  
2945.402 of the Revised Code alleging that the person has escaped  
from the premises of the institution in violation of section  
2921.34 of the Revised Code constitutes reasonable ground to  
believe that the violation was committed and reasonable cause to  
believe that the person alleged in the statement to have committed  
the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer"  
means a special police officer of the department of mental health  
designated under section 5119.14 of the Revised Code who is  
certified by the Ohio peace officer training commission under  
section 109.77 of the Revised Code as having successfully  
completed an approved peace officer basic training program.

(2) A "department of developmental disabilities special  
police officer" means a special police officer of the department  
of developmental disabilities designated under section 5123.13 of  
the Revised Code who is certified by the Ohio peace officer  
training council under section 109.77 of the Revised Code as  
having successfully completed an approved peace officer basic

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|--|--|
| training program.  | 20900  |
| (3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.  | 20901<br>20902   |
| (4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.   | 20903<br>20904   |
| (5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.  | 20905<br>20906   |
| (6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.  | 20907<br>20908   |
| (7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code. | 20909<br>20910<br>20911<br>20912<br>20913<br>20914<br>20915<br>20916<br>20917<br>20918 |
| (8) "Portion of any street or highway" means all lanes of the street or highway irrespective of direction of travel, including designated turn lanes, and any berm, median, or shoulder.   | 20919<br>20920<br>20921  |
| <b>Sec. 2945.371.</b> (A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.  | 20922<br>20923<br>20924<br>20925<br>20926<br>20927<br>20928                            |
| (B) If the court orders more than one evaluation under   | 20929  |

division (A) of this section, the prosecutor and the defendant may 20930  
recommend to the court an examiner whom each prefers to perform 20931  
one of the evaluations. If a defendant enters a plea of not guilty 20932  
by reason of insanity and if the court does not designate an 20933  
examiner recommended by the defendant, the court shall inform the 20934  
defendant that the defendant may have independent expert 20935  
evaluation and that, if the defendant is unable to obtain 20936  
independent expert evaluation, it will be obtained for the 20937  
defendant at public expense if the defendant is indigent. 20938

(C) If the court orders an evaluation under division (A) of 20939  
this section, the defendant shall be available at the times and 20940  
places established by the examiners who are to conduct the 20941  
evaluation. The court may order a defendant who has been released 20942  
on bail or recognizance to submit to an evaluation under this 20943  
section. If a defendant who has been released on bail or 20944  
recognizance refuses to submit to a complete evaluation, the court 20945  
may amend the conditions of bail or recognizance and order the 20946  
sheriff to take the defendant into custody and deliver the 20947  
defendant to a center, program, or facility operated or certified 20948  
by the department of mental health or the department of 20949  
developmental disabilities where the defendant may be held for 20950  
evaluation for a reasonable period of time not to exceed twenty 20951  
days. 20952

(D) A defendant who has not been released on bail or 20953  
recognizance may be evaluated at the defendant's place of 20954  
detention. Upon the request of the examiner, the court may order 20955  
the sheriff to transport the defendant to a program or facility 20956  
operated or certified by the department of mental health or the 20957  
department of developmental disabilities, where the defendant may 20958  
be held for evaluation for a reasonable period of time not to 20959  
exceed twenty days, and to return the defendant to the place of 20960  
detention after the evaluation. A municipal court may make an 20961

order under this division only upon the request of a certified forensic center examiner. 20962  
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(E) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged. 20964  
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(F) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome." 20968  
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(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the following: 20975  
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(1) The examiner's findings; 20980

(2) The facts in reasonable detail on which the findings are based; 20981  
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(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable: 20983  
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(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense; 20986  
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(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the 20989  
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20991

defendant's defense, whether the defendant presently is mentally 20992  
ill or mentally retarded and, if the examiner's opinion is that 20993  
the defendant presently is mentally retarded, whether the 20994  
defendant appears to be a mentally retarded person subject to 20995  
institutionalization by court order; 20996

(c) If the examiner's opinion is that the defendant is 20997  
incapable of understanding the nature and objective of the 20998  
proceedings against the defendant or of assisting in the 20999  
defendant's defense, the examiner's opinion as to the likelihood 21000  
of the defendant becoming capable of understanding the nature and 21001  
objective of the proceedings against the defendant and of 21002  
assisting in the defendant's defense within one year if the 21003  
defendant is provided with a course of treatment; 21004

(d) If the examiner's opinion is that the defendant is 21005  
incapable of understanding the nature and objective of the 21006  
proceedings against the defendant or of assisting in the 21007  
defendant's defense and that the defendant presently is mentally 21008  
ill or mentally retarded, the examiner's recommendation as to the 21009  
least restrictive placement or commitment alternative, consistent 21010  
with the defendant's treatment needs for restoration to competency 21011  
and with the safety of the community; 21012

~~(e) If the defendant is charged with a misdemeanor offense 21013  
that is not an offense of violence and the examiner's opinion is 21014  
that the defendant is incapable of understanding the nature and 21015  
objective of the proceedings against the defendant or of assisting 21016  
in the defendant's defense and that the defendant is presently 21017  
mentally ill or mentally retarded, the examiner's recommendation 21018  
as to whether the defendant is amenable to engagement in mental 21019  
health treatment or developmental disability services. 21020~~

(4) If the evaluation was ordered to determine the 21021  
defendant's mental condition at the time of the offense charged, 21022  
the examiner's findings as to whether the defendant, at the time 21023

of the offense charged, did not know, as a result of a severe 21024  
mental disease or defect, the wrongfulness of the defendant's acts 21025  
charged. 21026

(H) If the examiner's report filed under division (G) of this 21027  
section indicates that in the examiner's opinion the defendant is 21028  
incapable of understanding the nature and objective of the 21029  
proceedings against the defendant or of assisting in the 21030  
defendant's defense and that in the examiner's opinion the 21031  
defendant appears to be a mentally retarded person subject to 21032  
institutionalization by court order, the court shall order the 21033  
defendant to undergo a separate mental retardation evaluation 21034  
conducted by a psychologist designated by the director of 21035  
developmental disabilities. Divisions (C) to (F) of this section 21036  
apply in relation to a separate mental retardation evaluation 21037  
conducted under this division. The psychologist appointed under 21038  
this division to conduct the separate mental retardation 21039  
evaluation shall file a written report with the court within 21040  
thirty days after the entry of the court order requiring the 21041  
separate mental retardation evaluation, and the court shall 21042  
provide copies of the report to the prosecutor and defense 21043  
counsel. The report shall include all of the information described 21044  
in divisions (G)(1) to (4) of this section. If the court orders a 21045  
separate mental retardation evaluation of a defendant under this 21046  
division, the court shall not conduct a hearing under divisions 21047  
(B) to (H) of section 2945.37 of the Revised Code regarding that 21048  
defendant until a report of the separate mental retardation 21049  
evaluation conducted under this division has been filed. Upon the 21050  
filing of that report, the court shall conduct the hearing within 21051  
the period of time specified in division (C) of section 2945.37 of 21052  
the Revised Code. 21053

(I) An examiner appointed under divisions (A) and (B) of this 21054  
section or under division (H) of this section to evaluate a 21055

defendant to determine the defendant's competence to stand trial 21056  
also may be appointed to evaluate a defendant who has entered a 21057  
plea of not guilty by reason of insanity, but an examiner of that 21058  
nature shall prepare separate reports on the issue of competence 21059  
to stand trial and the defense of not guilty by reason of 21060  
insanity. 21061

(J) No statement that a defendant makes in an evaluation or 21062  
hearing under divisions (A) to (H) of this section relating to the 21063  
defendant's competence to stand trial or to the defendant's mental 21064  
condition at the time of the offense charged shall be used against 21065  
the defendant on the issue of guilt in any criminal action or 21066  
proceeding, but, in a criminal action or proceeding, the 21067  
prosecutor or defense counsel may call as a witness any person who 21068  
evaluated the defendant or prepared a report pursuant to a 21069  
referral under this section. Neither the appointment nor the 21070  
testimony of an examiner appointed under this section precludes 21071  
the prosecutor or defense counsel from calling other witnesses or 21072  
presenting other evidence on competency or insanity issues. 21073

(K) Persons appointed as examiners under divisions (A) and 21074  
(B) of this section or under division (H) of this section shall be 21075  
paid a reasonable amount for their services and expenses, as 21076  
certified by the court. The certified amount shall be paid by the 21077  
county in the case of county courts and courts of common pleas and 21078  
by the legislative authority, as defined in section 1901.03 of the 21079  
Revised Code, in the case of municipal courts. 21080

**Sec. 2945.38.** (A) If the issue of a defendant's competence to 21081  
stand trial is raised and if the court, upon conducting the 21082  
hearing provided for in section 2945.37 of the Revised Code, finds 21083  
that the defendant is competent to stand trial, the defendant 21084  
shall be proceeded against as provided by law. If the court finds 21085  
the defendant competent to stand trial and the defendant is 21086

receiving psychotropic drugs or other medication, the court may 21087  
authorize the continued administration of the drugs or medication 21088  
or other appropriate treatment in order to maintain the 21089  
defendant's competence to stand trial, unless the defendant's 21090  
attending physician advises the court against continuation of the 21091  
drugs, other medication, or treatment. 21092

(B)(1)(a) If, after taking into consideration all relevant 21093  
reports, information, and other evidence, the court finds that the 21094  
defendant is incompetent to stand trial and that there is a 21095  
substantial probability that the defendant will become competent 21096  
to stand trial within one year if the defendant is provided with a 21097  
course of treatment, the court shall order the defendant to 21098  
undergo treatment. If the defendant has been charged with a felony 21099  
offense and if, after taking into consideration all relevant 21100  
reports, information, and other evidence, the court finds that the 21101  
defendant is incompetent to stand trial, but the court is unable 21102  
at that time to determine whether there is a substantial 21103  
probability that the defendant will become competent to stand 21104  
trial within one year if the defendant is provided with a course 21105  
of treatment, the court shall order continuing evaluation and 21106  
treatment of the defendant for a period not to exceed four months 21107  
to determine whether there is a substantial probability that the 21108  
defendant will become competent to stand trial within one year if 21109  
the defendant is provided with a course of treatment. 21110

(b) The court order for the defendant to undergo treatment or 21111  
continuing evaluation and treatment under division (B)(1)(a) of 21112  
this section shall specify that the defendant, if determined to 21113  
require mental health treatment or continuing evaluation and 21114  
treatment, either shall be committed to the department of mental 21115  
health for treatment or continuing evaluation and treatment at a 21116  
hospital, facility, or agency, as determined to be clinically 21117  
appropriate by the department of mental health ~~and~~ or shall be 21118

committed to a facility certified by the department of mental health as being qualified to treat mental illness, to a public or community mental health facility, or to a psychiatrist or another mental health professional for treatment or continuing evaluation and treatment. Prior to placing the defendant, the department of mental health shall obtain court approval for that placement following a hearing. The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require treatment or continuing evaluation and treatment for a ~~developmental disability~~ mental retardation, shall receive treatment or continuing evaluation and treatment at an institution or facility operated by the department of developmental disabilities, at a facility certified by the department of developmental disabilities as being qualified to treat mental retardation, at a public or private ~~community~~ mental retardation facility, or by a psychiatrist or another mental retardation professional. ~~The~~ In any case, the order may restrict the defendant's freedom of movement as the court considers necessary. The prosecutor in the defendant's case shall send to the chief clinical officer of the hospital, facility, or agency where the defendant is placed by the department of mental health, or to the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed, copies of relevant police reports and other background information that pertains to the defendant and is available to the prosecutor unless the prosecutor determines that the release of any of the information in the police reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

~~In committing the defendant to the department of mental health, the court shall consider the extent to which the person is~~

~~a danger to the person and to others, the need for security, and~~ 21152  
~~the type of crime involved and, if the court finds that~~ 21153  
~~restrictions on the defendant's freedom of movement are necessary,~~ 21154  
~~shall specify the least restrictive limitations on the person's~~ 21155  
~~freedom of movement determined to be necessary to protect public~~ 21156  
~~safety. In determining the place of commitment alternatives for~~ 21157  
~~defendants determined to require treatment or continuing~~ 21158  
~~evaluation and treatment for developmental disabilities, the court~~ 21159  
shall consider the extent to which the person is a danger to the 21160  
person and to others, the need for security, and the type of crime 21161  
involved and shall order the least restrictive alternative 21162  
available that is consistent with public safety and treatment 21163  
goals. In weighing these factors, the court shall give preference 21164  
to protecting public safety. 21165

(c) If the defendant is found incompetent to stand trial, if 21166  
the chief clinical officer of the hospital, facility, or agency 21167  
where the defendant is placed, or the managing officer of the 21168  
institution, the director of the program or facility, or the 21169  
person to which the defendant is committed for treatment or 21170  
continuing evaluation and treatment under division (B)(1)(b) of 21171  
this section determines that medication is necessary to restore 21172  
the defendant's competency to stand trial, and if the defendant 21173  
lacks the capacity to give informed consent or refuses medication, 21174  
the chief clinical officer of the hospital, facility, or agency 21175  
where the defendant is placed, or the managing officer of the 21176  
institution, the director of the program or facility, or the 21177  
person to which the defendant is committed for treatment or 21178  
continuing evaluation and treatment may petition the court for 21179  
authorization for the involuntary administration of medication. 21180  
The court shall hold a hearing on the petition within five days of 21181  
the filing of the petition if the petition was filed in a 21182  
municipal court or a county court regarding an incompetent 21183  
defendant charged with a misdemeanor or within ten days of the 21184

filing of the petition if the petition was filed in a court of 21185  
common pleas regarding an incompetent defendant charged with a 21186  
felony offense. Following the hearing, the court may authorize the 21187  
involuntary administration of medication or may dismiss the 21188  
petition. 21189

~~(d) If the defendant is charged with a misdemeanor offense 21190  
that is not an offense of violence, the prosecutor may hold the 21191  
charges in abeyance while the defendant engages in mental health 21192  
treatment or developmental disability services. 21193~~

(2) If the court finds that the defendant is incompetent to 21194  
stand trial and that, even if the defendant is provided with a 21195  
course of treatment, there is not a substantial probability that 21196  
the defendant will become competent to stand trial within one 21197  
year, the court shall order the discharge of the defendant, unless 21198  
upon motion of the prosecutor or on its own motion, the court 21199  
either seeks to retain jurisdiction over the defendant pursuant to 21200  
section 2945.39 of the Revised Code or files an affidavit in the 21201  
probate court for the civil commitment of the defendant pursuant 21202  
to Chapter 5122. or 5123. of the Revised Code alleging that the 21203  
defendant is a mentally ill person subject to hospitalization by 21204  
court order or a mentally retarded person subject to 21205  
institutionalization by court order. If an affidavit is filed in 21206  
the probate court, the trial court shall send to the probate court 21207  
copies of all written reports of the defendant's mental condition 21208  
that were prepared pursuant to section 2945.371 of the Revised 21209  
Code. 21210

The trial court may issue the temporary order of detention 21211  
that a probate court may issue under section 5122.11 or 5123.71 of 21212  
the Revised Code, to remain in effect until the probable cause or 21213  
initial hearing in the probate court. Further proceedings in the 21214  
probate court are civil proceedings governed by Chapter 5122. or 21215  
5123. of the Revised Code. 21216

(C) No defendant shall be required to undergo treatment, 21217  
including any continuing evaluation and treatment, under division 21218  
(B)(1) of this section for longer than whichever of the following 21219  
periods is applicable: 21220

(1) One year, if the most serious offense with which the 21221  
defendant is charged is one of the following offenses: 21222

(a) Aggravated murder, murder, or an offense of violence for 21223  
which a sentence of death or life imprisonment may be imposed; 21224

(b) An offense of violence that is a felony of the first or 21225  
second degree; 21226

(c) A conspiracy to commit, an attempt to commit, or 21227  
complicity in the commission of an offense described in division 21228  
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 21229  
complicity is a felony of the first or second degree. 21230

(2) Six months, if the most serious offense with which the 21231  
defendant is charged is a felony other than a felony described in 21232  
division (C)(1) of this section; 21233

(3) Sixty days, if the most serious offense with which the 21234  
defendant is charged is a misdemeanor of the first or second 21235  
degree; 21236

(4) Thirty days, if the most serious offense with which the 21237  
defendant is charged is a misdemeanor of the third or fourth 21238  
degree, a minor misdemeanor, or an unclassified misdemeanor. 21239

(D) Any defendant who is committed pursuant to this section 21240  
shall not voluntarily admit the defendant or be voluntarily 21241  
admitted to a hospital or institution pursuant to section 5122.02, 21242  
5122.15, 5123.69, or 5123.76 of the Revised Code. 21243

(E) Except as otherwise provided in this division, a 21244  
defendant who is charged with an offense and is committed by the 21245  
court under this section to the department of mental health ~~with~~ 21246

~~restrictions on the defendant's freedom of movement~~ or is 21247  
committed to an institution or facility for the treatment of 21248  
~~developmental disabilities~~ mental retardation shall not be granted 21249  
unsupervised on-grounds movement, supervised off-grounds movement, 21250  
or nonsecured status except in accordance with the court order. 21251  
The court may grant a defendant supervised off-grounds movement to 21252  
obtain medical treatment or specialized habilitation treatment 21253  
services if the person who supervises the treatment or the 21254  
continuing evaluation and treatment of the defendant ordered under 21255  
division (B)(1)(a) of this section informs the court that the 21256  
treatment or continuing evaluation and treatment cannot be 21257  
provided at the hospital or facility where the defendant is placed 21258  
by the department of mental health or the institution or facility 21259  
to which the defendant is committed. The chief clinical officer of 21260  
the hospital or facility where the defendant is placed by the 21261  
department of mental health or the managing officer of the 21262  
institution or director of the facility to which the defendant is 21263  
committed, or a designee of any of those persons, may grant a 21264  
defendant movement to a medical facility for an emergency medical 21265  
situation with appropriate supervision to ensure the safety of the 21266  
defendant, staff, and community during that emergency medical 21267  
situation. The chief clinical officer of the hospital or facility 21268  
where the defendant is placed by the department of mental health 21269  
or the managing officer of the institution or director of the 21270  
facility to which the defendant is committed shall notify the 21271  
court within twenty-four hours of the defendant's movement to the 21272  
medical facility for an emergency medical situation under this 21273  
division. 21274

(F) The person who supervises the treatment or continuing 21275  
evaluation and treatment of a defendant ordered to undergo 21276  
treatment or continuing evaluation and treatment under division 21277  
(B)(1)(a) of this section shall file a written report with the 21278  
court at the following times: 21279

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or mentally retarded, and if the

maximum time for treatment as specified in division (C) of this 21312  
section has not expired, the report also shall contain the 21313  
examiner's recommendation as to the least restrictive placement or 21314  
commitment alternative that is consistent with the defendant's 21315  
treatment needs for restoration to competency and with the safety 21316  
of the community. The court shall provide copies of the report to 21317  
the prosecutor and defense counsel. 21318

(H) If a defendant is committed pursuant to division (B)(1) 21319  
of this section, within ten days after the treating physician of 21320  
the defendant or the examiner of the defendant who is employed or 21321  
retained by the treating facility advises that there is not a 21322  
substantial probability that the defendant will become capable of 21323  
understanding the nature and objective of the proceedings against 21324  
the defendant or of assisting in the defendant's defense even if 21325  
the defendant is provided with a course of treatment, within ten 21326  
days after the expiration of the maximum time for treatment as 21327  
specified in division (C) of this section, within ten days after 21328  
the expiration of the maximum time for continuing evaluation and 21329  
treatment as specified in division (B)(1)(a) of this section, 21330  
within thirty days after a defendant's request for a hearing that 21331  
is made after six months of treatment, or within thirty days after 21332  
being advised by the treating physician or examiner that the 21333  
defendant is competent to stand trial, whichever is the earliest, 21334  
the court shall conduct another hearing to determine if the 21335  
defendant is competent to stand trial and shall do whichever of 21336  
the following is applicable: 21337

(1) If the court finds that the defendant is competent to 21338  
stand trial, the defendant shall be proceeded against as provided 21339  
by law. 21340

(2) If the court finds that the defendant is incompetent to 21341  
stand trial, but that there is a substantial probability that the 21342  
defendant will become competent to stand trial if the defendant is 21343

provided with a course of treatment, and the maximum time for 21344  
treatment as specified in division (C) of this section has not 21345  
expired, the court, after consideration of the examiner's 21346  
recommendation, shall order that treatment be continued, may 21347  
change the ~~least restrictive limitations on the defendant's~~ 21348  
~~freedom of movement~~ facility or program at which the treatment is 21349  
to be continued, and, ~~if applicable~~, shall specify whether the 21350  
treatment ~~for developmental disabilities~~ is to be continued at the 21351  
same or a different facility or ~~institution~~ program. 21352

(3) If the court finds that the defendant is incompetent to 21353  
stand trial, if the defendant is charged with an offense listed in 21354  
division (C)(1) of this section, and if the court finds that there 21355  
is not a substantial probability that the defendant will become 21356  
competent to stand trial even if the defendant is provided with a 21357  
course of treatment, or if the maximum time for treatment relative 21358  
to that offense as specified in division (C) of this section has 21359  
expired, further proceedings shall be as provided in sections 21360  
2945.39, 2945.401, and 2945.402 of the Revised Code. 21361

(4) If the court finds that the defendant is incompetent to 21362  
stand trial, if the most serious offense with which the defendant 21363  
is charged is a misdemeanor or a felony other than a felony listed 21364  
in division (C)(1) of this section, and if the court finds that 21365  
there is not a substantial probability that the defendant will 21366  
become competent to stand trial even if the defendant is provided 21367  
with a course of treatment, or if the maximum time for treatment 21368  
relative to that offense as specified in division (C) of this 21369  
section has expired, the court shall dismiss the indictment, 21370  
information, or complaint against the defendant. A dismissal under 21371  
this division is not a bar to further prosecution based on the 21372  
same conduct. The court shall discharge the defendant unless the 21373  
court or prosecutor files an affidavit in probate court for civil 21374  
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 21375

If an affidavit for civil commitment is filed, the court may 21376  
detain the defendant for ten days pending civil commitment. All of 21377  
the following provisions apply to persons charged with a 21378  
misdemeanor or a felony other than a felony listed in division 21379  
(C)(1) of this section who are committed by the probate court 21380  
subsequent to the court's or prosecutor's filing of an affidavit 21381  
for civil commitment under authority of this division: 21382

(a) The chief clinical officer of the entity, hospital, or 21383  
facility, the managing officer of the institution, the director of 21384  
the program, or the person to which the defendant is committed or 21385  
admitted shall do all of the following: 21386

(i) Notify the prosecutor, in writing, of the discharge of 21387  
the defendant, send the notice at least ten days prior to the 21388  
discharge unless the discharge is by the probate court, and state 21389  
in the notice the date on which the defendant will be discharged; 21390

(ii) Notify the prosecutor, in writing, when the defendant is 21391  
absent without leave or is granted unsupervised, off-grounds 21392  
movement, and send this notice promptly after the discovery of the 21393  
absence without leave or prior to the granting of the 21394  
unsupervised, off-grounds movement, whichever is applicable; 21395

(iii) Notify the prosecutor, in writing, of the change of the 21396  
defendant's commitment or admission to voluntary status, send the 21397  
notice promptly upon learning of the change to voluntary status, 21398  
and state in the notice the date on which the defendant was 21399  
committed or admitted on a voluntary status. 21400

(b) Upon receiving notice that the defendant will be granted 21401  
unsupervised, off-grounds movement, the prosecutor either shall 21402  
re-indict the defendant or promptly notify the court that the 21403  
prosecutor does not intend to prosecute the charges against the 21404  
defendant. 21405

(I) If a defendant is convicted of a crime and sentenced to a 21406

jail or workhouse, the defendant's sentence shall be reduced by 21407  
the total number of days the defendant is confined for evaluation 21408  
to determine the defendant's competence to stand trial or 21409  
treatment under this section and sections 2945.37 and 2945.371 of 21410  
the Revised Code or by the total number of days the defendant is 21411  
confined for evaluation to determine the defendant's mental 21412  
condition at the time of the offense charged. 21413

**Sec. 2945.39.** (A) If a defendant who is charged with an 21414  
offense described in division (C)(1) of section 2945.38 of the 21415  
Revised Code is found incompetent to stand trial, after the 21416  
expiration of the maximum time for treatment as specified in 21417  
division (C) of that section or after the court finds that there 21418  
is not a substantial probability that the defendant will become 21419  
competent to stand trial even if the defendant is provided with a 21420  
course of treatment, one of the following applies: 21421

(1) The court or the prosecutor may file an affidavit in 21422  
probate court for civil commitment of the defendant in the manner 21423  
provided in Chapter 5122. or 5123. of the Revised Code. If the 21424  
court or prosecutor files an affidavit for civil commitment, the 21425  
court may detain the defendant for ten days pending civil 21426  
commitment. If the probate court commits the defendant subsequent 21427  
to the court's or prosecutor's filing of an affidavit for civil 21428  
commitment, the chief clinical officer of the entity, hospital, or 21429  
facility, the managing officer of the institution, the director of 21430  
the program, or the person to which the defendant is committed or 21431  
admitted shall send to the prosecutor the notices described in 21432  
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 21433  
Code within the periods of time and under the circumstances 21434  
specified in those divisions. 21435

(2) On the motion of the prosecutor or on its own motion, the 21436  
court may retain jurisdiction over the defendant if, at a hearing, 21437

the court finds both of the following by clear and convincing evidence: 21438  
evidence: 21439

(a) The defendant committed the offense with which the defendant is charged. 21440  
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(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. 21442  
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(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the defendant that is relevant to the defendant's ability to conform to the law. 21445  
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(C) If the court conducts a hearing as described in division (A)(2) of this section and if the court does not make both findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall dismiss the indictment, information, or complaint against the defendant. Upon the dismissal, the court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may order that the defendant be detained for up to ten days pending the civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 21452  
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within the periods of time and under the circumstances specified 21470  
in those divisions. A dismissal of charges under this division is 21471  
not a bar to further criminal proceedings based on the same 21472  
conduct. 21473

(D)(1) If the court conducts a hearing as described in 21474  
division (A)(2) of this section and if the court makes the 21475  
findings described in divisions (A)(2)(a) and (b) of this section 21476  
by clear and convincing evidence, the court shall commit the 21477  
defendant, if determined to require mental health treatment, 21478  
either to the department of mental health for treatment at a 21479  
hospital, facility, or agency as determined clinically appropriate 21480  
by the department of mental health or to another medical or 21481  
psychiatric facility, as appropriate. Prior to placing the 21482  
defendant, the department of mental health shall obtain court 21483  
approval for that placement. If the court conducts such a hearing 21484  
and if it makes those findings by clear and convincing evidence, 21485  
the court shall commit the defendant, if determined to require 21486  
treatment for ~~developmental disabilities~~ mental retardation, to a 21487  
facility operated by the department of developmental disabilities, 21488  
or another facility, as appropriate. ~~In committing the defendant~~ 21489  
~~to the department of mental health, the court shall specify the~~ 21490  
~~least restrictive limitations on the defendant's freedom of~~ 21491  
~~movement determined to be necessary to protect public safety. In~~ 21492  
~~determining the place and nature of the commitment to a facility~~ 21493  
~~operated by the department of developmental disabilities or~~ 21494  
~~another facility for treatment of developmental disabilities, the~~ 21495  
~~court~~ In determining the place of commitment, the court shall 21496  
consider the extent to which the person is a danger to the person 21497  
and to others, the need for security, and the type of crime 21498  
involved and shall order the least restrictive ~~commitment~~ 21499  
alternative available that is consistent with public safety and 21500  
the welfare of the defendant. In weighing these factors, the court 21501  
shall give preference to protecting public safety. 21502

(2) If a court makes a commitment of a defendant under 21503  
division (D)(1) of this section, the prosecutor shall send to the 21504  
hospital, facility, or agency where the defendant is placed by the 21505  
department of mental health or to the defendant's place of 21506  
commitment all reports of the defendant's current mental condition 21507  
and, except as otherwise provided in this division, any other 21508  
relevant information, including, but not limited to, a transcript 21509  
of the hearing held pursuant to division (A)(2) of this section, 21510  
copies of relevant police reports, and copies of any prior arrest 21511  
and conviction records that pertain to the defendant and that the 21512  
prosecutor possesses. The prosecutor shall send the reports of the 21513  
defendant's current mental condition in every case of commitment, 21514  
and, unless the prosecutor determines that the release of any of 21515  
the other relevant information to unauthorized persons would 21516  
interfere with the effective prosecution of any person or would 21517  
create a substantial risk of harm to any person, the prosecutor 21518  
also shall send the other relevant information. Upon admission of 21519  
a defendant committed under division (D)(1) of this section, the 21520  
place of commitment shall send to the board of alcohol, drug 21521  
addiction, and mental health services or the community mental 21522  
health board serving the county in which the charges against the 21523  
defendant were filed a copy of all reports of the defendant's 21524  
current mental condition and a copy of the other relevant 21525  
information provided by the prosecutor under this division, 21526  
including, if provided, a transcript of the hearing held pursuant 21527  
to division (A)(2) of this section, the relevant police reports, 21528  
and the prior arrest and conviction records that pertain to the 21529  
defendant and that the prosecutor possesses. 21530

(3) If a court makes a commitment under division (D)(1) of 21531  
this section, all further proceedings shall be in accordance with 21532  
sections 2945.401 and 2945.402 of the Revised Code. 21533

**Sec. 2945.40.** (A) If a person is found not guilty by reason 21534

of insanity, the verdict shall state that finding, and the trial 21535  
court shall conduct a full hearing to determine whether the person 21536  
is a mentally ill person subject to hospitalization by court order 21537  
or a mentally retarded person subject to institutionalization by 21538  
court order. Prior to the hearing, if the trial judge believes 21539  
that there is probable cause that the person found not guilty by 21540  
reason of insanity is a mentally ill person subject to 21541  
hospitalization by court order or mentally retarded person subject 21542  
to institutionalization by court order, the trial judge may issue 21543  
a temporary order of detention for that person to remain in effect 21544  
for ten court days or until the hearing, whichever occurs first. 21545

Any person detained pursuant to a temporary order of 21546  
detention issued under this division shall be held in a suitable 21547  
facility, taking into consideration the place and type of 21548  
confinement prior to and during trial. 21549

(B) The court shall hold the hearing under division (A) of 21550  
this section to determine whether the person found not guilty by 21551  
reason of insanity is a mentally ill person subject to 21552  
hospitalization by court order or a mentally retarded person 21553  
subject to institutionalization by court order within ten court 21554  
days after the finding of not guilty by reason of insanity. 21555  
Failure to conduct the hearing within the ten-day period shall 21556  
cause the immediate discharge of the respondent, unless the judge 21557  
grants a continuance for not longer than ten court days for good 21558  
cause shown or for any period of time upon motion of the 21559  
respondent. 21560

(C) If a person is found not guilty by reason of insanity, 21561  
the person has the right to attend all hearings conducted pursuant 21562  
to sections 2945.37 to 2945.402 of the Revised Code. At any 21563  
hearing conducted pursuant to one of those sections, the court 21564  
shall inform the person that the person has all of the following 21565  
rights: 21566

(1) The right to be represented by counsel and to have that 21567  
counsel provided at public expense if the person is indigent, with 21568  
the counsel to be appointed by the court under Chapter 120. of the 21569  
Revised Code or under the authority recognized in division (C) of 21570  
section 120.06, division (E) of section 120.16, division (E) of 21571  
section 120.26, or section 2941.51 of the Revised Code; 21572

(2) The right to have independent expert evaluation and to 21573  
have that independent expert evaluation provided at public expense 21574  
if the person is indigent; 21575

(3) The right to subpoena witnesses and documents, to present 21576  
evidence on the person's behalf, and to cross-examine witnesses 21577  
against the person; 21578

(4) The right to testify in the person's own behalf and to 21579  
not be compelled to testify; 21580

(5) The right to have copies of any relevant medical or 21581  
mental health document in the custody of the state or of any place 21582  
of commitment other than a document for which the court finds that 21583  
the release to the person of information contained in the document 21584  
would create a substantial risk of harm to any person. 21585

(D) The hearing under division (A) of this section shall be 21586  
open to the public, and the court shall conduct the hearing in 21587  
accordance with the Rules of Civil Procedure. The court shall make 21588  
and maintain a full transcript and record of the hearing 21589  
proceedings. The court may consider all relevant evidence, 21590  
including, but not limited to, any relevant psychiatric, 21591  
psychological, or medical testimony or reports, the acts 21592  
constituting the offense in relation to which the person was found 21593  
not guilty by reason of insanity, and any history of the person 21594  
that is relevant to the person's ability to conform to the law. 21595

(E) Upon completion of the hearing under division (A) of this 21596  
section, if the court finds there is not clear and convincing 21597

evidence that the person is a mentally ill person subject to 21598  
hospitalization by court order or a mentally retarded person 21599  
subject to institutionalization by court order, the court shall 21600  
discharge the person, unless a detainer has been placed upon the 21601  
person by the department of rehabilitation and correction, in 21602  
which case the person shall be returned to that department. 21603

(F) If, at the hearing under division (A) of this section, 21604  
the court finds by clear and convincing evidence that the person 21605  
is a mentally ill person subject to hospitalization by court 21606  
order, the court shall commit the person either to the department 21607  
of mental health for ~~placement~~ treatment in a hospital, facility, 21608  
or agency as determined clinically appropriate by the department 21609  
of mental health or to another medical or psychiatric facility, as 21610  
appropriate. Prior to placing the defendant, the department of 21611  
mental health shall obtain court approval for that placement. If, 21612  
at the hearing under division (A) of this section, the court ~~finds~~ 21613  
determines by clear and convincing evidence that the person ~~is a~~ 21614  
~~mentally retarded person subject to institutionalization by court~~ 21615  
~~order~~ requires treatment for mental retardation, it shall commit 21616  
the person to a facility operated by the department of 21617  
developmental disabilities or another facility, as appropriate. 21618  
Further proceedings shall be in accordance with sections 2945.401 21619  
and 2945.402 of the Revised Code. ~~In committing the person to the~~ 21620  
~~department of mental health, the court shall specify the least~~ 21621  
~~restrictive limitations to the defendant's freedom of movement~~ 21622  
~~determined to be necessary to protect public safety.~~ In 21623  
determining the place ~~and nature of the commitment of a mentally~~ 21624  
~~retarded person subject to institutionalization by court order,~~ 21625  
the court shall consider the extent to which the person is a 21626  
danger to the person and to others, the need for security, and the 21627  
type of crime involved and shall order the least restrictive 21628  
~~commitment~~ alternative available that is consistent with public 21629  
safety and the welfare of the person. In weighing these factors, 21630

the court shall give preference to protecting public safety. 21631

(G) If a court makes a commitment of a person under division 21632  
(F) of this section, the prosecutor shall send to the hospital, 21633  
facility, or agency where the person is placed by the department 21634  
of mental health or to the defendant's place of commitment all 21635  
reports of the person's current mental condition, and, except as 21636  
otherwise provided in this division, any other relevant 21637  
information, including, but not limited to, a transcript of the 21638  
hearing held pursuant to division (A) of this section, copies of 21639  
relevant police reports, and copies of any prior arrest and 21640  
conviction records that pertain to the person and that the 21641  
prosecutor possesses. The prosecutor shall send the reports of the 21642  
person's current mental condition in every case of commitment, 21643  
and, unless the prosecutor determines that the release of any of 21644  
the other relevant information to unauthorized persons would 21645  
interfere with the effective prosecution of any person or would 21646  
create a substantial risk of harm to any person, the prosecutor 21647  
also shall send the other relevant information. Upon admission of 21648  
a person committed under division (F) of this section, the place 21649  
of commitment shall send to the board of alcohol, drug addiction, 21650  
and mental health services or the community mental health board 21651  
serving the county in which the charges against the person were 21652  
filed a copy of all reports of the person's current mental 21653  
condition and a copy of the other relevant information provided by 21654  
the prosecutor under this division, including, if provided, a 21655  
transcript of the hearing held pursuant to division (A) of this 21656  
section, the relevant police reports, and the prior arrest and 21657  
conviction records that pertain to the person and that the 21658  
prosecutor possesses. 21659

(H) A person who is committed pursuant to this section shall 21660  
not voluntarily admit the person or be voluntarily admitted to a 21661  
hospital or institution pursuant to section 5122.02, 5122.15, 21662

5123.69, or 5123.76 of the Revised Code. 21663

**Sec. 2945.401.** (A) A defendant found incompetent to stand 21664  
trial and committed pursuant to section 2945.39 of the Revised 21665  
Code or a person found not guilty by reason of insanity and 21666  
committed pursuant to section 2945.40 of the Revised Code shall 21667  
remain subject to the jurisdiction of the trial court pursuant to 21668  
that commitment, and to the provisions of this section, until the 21669  
final termination of the commitment as described in division 21670  
(J)(1) of this section. If the jurisdiction is terminated under 21671  
this division because of the final termination of the commitment 21672  
resulting from the expiration of the maximum prison term or term 21673  
of imprisonment described in division (J)(1)(b) of this section, 21674  
the court or prosecutor may file an affidavit for the civil 21675  
commitment of the defendant or person pursuant to Chapter 5122. or 21676  
5123. of the Revised Code. 21677

(B) A hearing conducted under any provision of sections 21678  
2945.37 to 2945.402 of the Revised Code shall not be conducted in 21679  
accordance with Chapters 5122. and 5123. of the Revised Code. Any 21680  
person who is committed pursuant to section 2945.39 or 2945.40 of 21681  
the Revised Code shall not voluntarily admit the person or be 21682  
voluntarily admitted to a hospital or institution pursuant to 21683  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 21684  
All other provisions of Chapters 5122. and 5123. of the Revised 21685  
Code regarding hospitalization or institutionalization shall apply 21686  
to the extent they are not in conflict with this chapter. A 21687  
commitment under section 2945.39 or 2945.40 of the Revised Code 21688  
shall not be terminated and the conditions of the commitment shall 21689  
not be changed except as otherwise provided in division (D)(2) of 21690  
this section with respect to a mentally retarded person subject to 21691  
institutionalization by court order or except by order of the 21692  
trial court. 21693

(C) The department of mental health or the institution ~~or~~,  
facility, or program to which a defendant or person has been  
committed under section 2945.39 or 2945.40 of the Revised Code  
shall report in writing to the trial court, at the times specified  
in this division, as to whether the defendant or person remains a  
mentally ill person subject to hospitalization by court order or a  
mentally retarded person subject to institutionalization by court  
order and, in the case of a defendant committed under section  
2945.39 of the Revised Code, as to whether the defendant remains  
incompetent to stand trial. The department, institution, ~~or~~  
facility, or program shall make the reports after the initial six  
months of treatment and every two years after the initial report  
is made. The trial court shall provide copies of the reports to  
the prosecutor and to the counsel for the defendant or person.  
Within thirty days after its receipt pursuant to this division of  
a report from the department, institution, ~~or~~ facility, or  
program, the trial court shall hold a hearing on the continued  
commitment of the defendant or person or on any changes in the  
conditions of the commitment of the defendant or person. The  
defendant or person may request a change in the conditions of  
confinement, and the trial court shall conduct a hearing on that  
request if six months or more have elapsed since the most recent  
hearing was conducted under this section.

(D)(1) Except as otherwise provided in division (D)(2) of  
this section, when a defendant or person has been committed under  
section 2945.39 or 2945.40 of the Revised Code, at any time after  
evaluating the risks to public safety and the welfare of the  
defendant or person, the designee of the department of mental  
health or the managing officer of the institution or director of  
the facility or program to which the defendant or person is  
committed may recommend a termination of the defendant's or  
person's commitment or a change in the conditions of the  
defendant's or person's commitment.

Except as otherwise provided in division (D)(2) of this section, if the designee of the department of mental health recommends on-grounds unsupervised movement, off-grounds supervised movement, or nonsecured status for the defendant or person or termination of the defendant's or person's commitment, the following provisions apply:

(a) If the department's designee recommends on-grounds unsupervised movement or off-grounds supervised movement, the department's designee shall file with the trial court an application for approval of the movement and shall send a copy of the application to the prosecutor. Within fifteen days after receiving the application, the prosecutor may request a hearing on the application and, if a hearing is requested, shall so inform the department's designee. If the prosecutor does not request a hearing within the fifteen-day period, the trial court shall approve the application by entering its order approving the requested movement or, within five days after the expiration of the fifteen-day period, shall set a date for a hearing on the application. If the prosecutor requests a hearing on the application within the fifteen-day period, the trial court shall hold a hearing on the application within thirty days after the hearing is requested. If the trial court, within five days after the expiration of the fifteen-day period, sets a date for a hearing on the application, the trial court shall hold the hearing within thirty days after setting the hearing date. At least fifteen days before any hearing is held under this division, the trial court shall give the prosecutor written notice of the date, time, and place of the hearing. At the conclusion of each hearing conducted under this division, the trial court either shall approve or disapprove the application and shall enter its order accordingly.

(b) If the department's designee recommends termination of

the defendant's or person's commitment at any time or if the 21759  
department's designee recommends the first of any nonsecured 21760  
status for the defendant or person, the department's designee 21761  
shall send written notice of this recommendation to the trial 21762  
court and to the local forensic center. The local forensic center 21763  
shall evaluate the committed defendant or person and, within 21764  
thirty days after its receipt of the written notice, shall submit 21765  
to the trial court and the department's designee a written report 21766  
of the evaluation. The trial court shall provide a copy of the 21767  
department's designee's written notice and of the local forensic 21768  
center's written report to the prosecutor and to the counsel for 21769  
the defendant or person. Upon the local forensic center's 21770  
submission of the report to the trial court and the department's 21771  
designee, all of the following apply: 21772

(i) If the forensic center disagrees with the recommendation 21773  
of the department's designee, it shall inform the department's 21774  
designee and the trial court of its decision and the reasons for 21775  
the decision. The department's designee, after consideration of 21776  
the forensic center's decision, shall either withdraw, proceed 21777  
with, or modify and proceed with the recommendation. If the 21778  
department's designee proceeds with, or modifies and proceeds 21779  
with, the recommendation, the department's designee shall proceed 21780  
in accordance with division (D)(1)(b)(iii) of this section. 21781

(ii) If the forensic center agrees with the recommendation of 21782  
the department's designee, it shall inform the department's 21783  
designee and the trial court of its decision and the reasons for 21784  
the decision, and the department's designee shall proceed in 21785  
accordance with division (D)(1)(b)(iii) of this section. 21786

(iii) If the forensic center disagrees with the 21787  
recommendation of the department's designee and the department's 21788  
designee proceeds with, or modifies and proceeds with, the 21789  
recommendation or if the forensic center agrees with the 21790

recommendation of the department's designee, the department's 21791  
designee shall work with community mental health agencies, 21792  
programs, facilities, or boards of alcohol, drug addiction, and 21793  
mental health services or community mental health boards to 21794  
develop a plan to implement the recommendation. If the defendant 21795  
or person is on medication, the plan shall include, but shall not 21796  
be limited to, a system to monitor the defendant's or person's 21797  
compliance with the prescribed medication treatment plan. The 21798  
system shall include a schedule that clearly states when the 21799  
defendant or person shall report for a medication compliance 21800  
check. The medication compliance checks shall be based upon the 21801  
effective duration of the prescribed medication, taking into 21802  
account the route by which it is taken, and shall be scheduled at 21803  
intervals sufficiently close together to detect a potential 21804  
increase in mental illness symptoms that the medication is 21805  
intended to prevent. 21806

The department's designee, after consultation with the board 21807  
of alcohol, drug addiction, and mental health services or the 21808  
community mental health board serving the area, shall send the 21809  
recommendation and plan developed under division (D)(1)(b)(iii) of 21810  
this section, in writing, to the trial court, the prosecutor, and 21811  
the counsel for the committed defendant or person. The trial court 21812  
shall conduct a hearing on the recommendation and plan developed 21813  
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 21814  
and (d) and (E) to (J) of this section apply regarding the 21815  
hearing. 21816

(c) If the department's designee's recommendation is for 21817  
nonsecured status or termination of commitment, the prosecutor may 21818  
obtain an independent expert evaluation of the defendant's or 21819  
person's mental condition, and the trial court may continue the 21820  
hearing on the recommendation for a period of not more than thirty 21821  
days to permit time for the evaluation. 21822

The prosecutor may introduce the evaluation report or present 21823  
other evidence at the hearing in accordance with the Rules of 21824  
Evidence. 21825

(d) The trial court shall schedule the hearing on a 21826  
department's designee's recommendation for nonsecured status or 21827  
termination of commitment and shall give reasonable notice to the 21828  
prosecutor and the counsel for the defendant or person. Unless 21829  
continued for independent evaluation at the prosecutor's request 21830  
or for other good cause, the hearing shall be held within thirty 21831  
days after the trial court's receipt of the recommendation and 21832  
plan. 21833

(2)(a) Division (D)(1) of this section does not apply to 21834  
on-grounds unsupervised movement of a defendant or person who has 21835  
been committed under section 2945.39 or 2945.40 of the Revised 21836  
Code, who is a mentally retarded person subject to 21837  
institutionalization by court order, and who is being provided 21838  
residential habilitation, care, and treatment in a facility 21839  
operated by the department of developmental disabilities. 21840

(b) If, pursuant to section 2945.39 of the Revised Code, the 21841  
trial court commits a defendant who is found incompetent to stand 21842  
trial and who is a mentally retarded person subject to 21843  
institutionalization by court order, if the defendant is being 21844  
provided residential habilitation, care, and treatment in a 21845  
facility operated by the department of developmental disabilities, 21846  
if an individual who is conducting a survey for the department of 21847  
health to determine the facility's compliance with the 21848  
certification requirements of the medicaid program under Chapter 21849  
5111. of the Revised Code and Title XIX of the "Social Security 21850  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 21851  
defendant's receipt of the residential habilitation, care, and 21852  
treatment in the facility as being inappropriate under the 21853  
certification requirements, if the defendant's receipt of the 21854

residential habilitation, care, and treatment in the facility 21855  
potentially jeopardizes the facility's continued receipt of 21856  
federal medicaid moneys, and if as a result of the citation the 21857  
chief clinical officer of the facility determines that the 21858  
conditions of the defendant's commitment should be changed, the 21859  
department of developmental disabilities may cause the defendant 21860  
to be removed from the particular facility and, after evaluating 21861  
the risks to public safety and the welfare of the defendant and 21862  
after determining whether another type of placement is consistent 21863  
with the certification requirements, may place the defendant in 21864  
another facility that the department selects as an appropriate 21865  
facility for the defendant's continued receipt of residential 21866  
habilitation, care, and treatment and that is a no less secure 21867  
setting than the facility in which the defendant had been placed 21868  
at the time of the citation. Within three days after the 21869  
defendant's removal and alternative placement under the 21870  
circumstances described in division (D)(2)(b) of this section, the 21871  
department of developmental disabilities shall notify the trial 21872  
court and the prosecutor in writing of the removal and alternative 21873  
placement. 21874

The trial court shall set a date for a hearing on the removal 21875  
and alternative placement, and the hearing shall be held within 21876  
twenty-one days after the trial court's receipt of the notice from 21877  
the department of developmental disabilities. At least ten days 21878  
before the hearing is held, the trial court shall give the 21879  
prosecutor, the department of developmental disabilities, and the 21880  
counsel for the defendant written notice of the date, time, and 21881  
place of the hearing. At the hearing, the trial court shall 21882  
consider the citation issued by the individual who conducted the 21883  
survey for the department of health to be prima-facie evidence of 21884  
the fact that the defendant's commitment to the particular 21885  
facility was inappropriate under the certification requirements of 21886  
the medicaid program under Chapter 5111. of the Revised Code and 21887

Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 21888  
U.S.C.A. 301, as amended, and potentially jeopardizes the 21889  
particular facility's continued receipt of federal medicaid 21890  
moneys. At the conclusion of the hearing, the trial court may 21891  
approve or disapprove the defendant's removal and alternative 21892  
placement. If the trial court approves the defendant's removal and 21893  
alternative placement, the department of developmental 21894  
disabilities may continue the defendant's alternative placement. 21895  
If the trial court disapproves the defendant's removal and 21896  
alternative placement, it shall enter an order modifying the 21897  
defendant's removal and alternative placement, but that order 21898  
shall not require the department of developmental disabilities to 21899  
replace the defendant for purposes of continued residential 21900  
habilitation, care, and treatment in the facility associated with 21901  
the citation issued by the individual who conducted the survey for 21902  
the department of health. 21903

(E) In making a determination under this section regarding 21904  
nonsecured status or termination of commitment, the trial court 21905  
shall consider all relevant factors, including, but not limited 21906  
to, all of the following: 21907

(1) Whether, in the trial court's view, the defendant or 21908  
person currently represents a substantial risk of physical harm to 21909  
the defendant or person or others; 21910

(2) Psychiatric and medical testimony as to the current 21911  
mental and physical condition of the defendant or person; 21912

(3) Whether the defendant or person has insight into the 21913  
~~defendant's~~ defendant's or person's condition so that the 21914  
defendant or person will continue treatment as prescribed or seek 21915  
professional assistance as needed; 21916

(4) The grounds upon which the state relies for the proposed 21917  
commitment; 21918

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D)(1) or (2) of this section, the prosecutor shall represent the state or the public interest.

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the designee of the department of mental health, managing officer of the institution, or director of a facility or program, the trial

court may approve, disapprove, or modify the recommendation and 21950  
shall enter an order accordingly. 21951

(J)(1) A defendant or person who has been committed pursuant 21952  
to section 2945.39 or 2945.40 of the Revised Code continues to be 21953  
under the jurisdiction of the trial court until the final 21954  
termination of the commitment. For purposes of division (J) of 21955  
this section, the final termination of a commitment occurs upon 21956  
the earlier of one of the following: 21957

(a) The defendant or person no longer is a mentally ill 21958  
person subject to hospitalization by court order or a mentally 21959  
retarded person subject to institutionalization by court order, as 21960  
determined by the trial court; 21961

(b) The expiration of the maximum prison term or term of 21962  
imprisonment that the defendant or person could have received if 21963  
the defendant or person had been convicted of the most serious 21964  
offense with which the defendant or person is charged or in 21965  
relation to which the defendant or person was found not guilty by 21966  
reason of insanity; 21967

(c) The trial court enters an order terminating the 21968  
commitment under the circumstances described in division 21969  
(J)(2)(a)(ii) of this section. 21970

(2)(a) If a defendant is found incompetent to stand trial and 21971  
committed pursuant to section 2945.39 of the Revised Code, if 21972  
neither of the circumstances described in divisions (J)(1)(a) and 21973  
(b) of this section applies to that defendant, and if a report 21974  
filed with the trial court pursuant to division (C) of this 21975  
section indicates that the defendant presently is competent to 21976  
stand trial or if, at any other time during the period of the 21977  
defendant's commitment, the prosecutor, the counsel for the 21978  
defendant, or the designee of the department of mental health or 21979  
the managing officer of the institution or director of the 21980

facility or program to which the defendant is committed files an 21981  
application with the trial court alleging that the defendant 21982  
presently is competent to stand trial and requesting a hearing on 21983  
the competency issue or the trial court otherwise has reasonable 21984  
cause to believe that the defendant presently is competent to 21985  
stand trial and determines on its own motion to hold a hearing on 21986  
the competency issue, the trial court shall schedule a hearing on 21987  
the competency of the defendant to stand trial, shall give the 21988  
prosecutor, the counsel for the defendant, and the department's 21989  
designee or the managing officer of the institution or the 21990  
director of the facility to which the defendant is committed 21991  
notice of the date, time, and place of the hearing at least 21992  
fifteen days before the hearing, and shall conduct the hearing 21993  
within thirty days of the filing of the application or of its own 21994  
motion. If, at the conclusion of the hearing, the trial court 21995  
determines that the defendant presently is capable of 21996  
understanding the nature and objective of the proceedings against 21997  
the defendant and of assisting in the defendant's defense, the 21998  
trial court shall order that the defendant is competent to stand 21999  
trial and shall be proceeded against as provided by law with 22000  
respect to the applicable offenses described in division (C)(1) of 22001  
section 2945.38 of the Revised Code and shall enter whichever of 22002  
the following additional orders is appropriate: 22003

(i) If the trial court determines that the defendant remains 22004  
a mentally ill person subject to hospitalization by court order or 22005  
a mentally retarded person subject to institutionalization by 22006  
court order, the trial court shall order that the defendant's 22007  
commitment to the department of mental health or to an institution 22008  
~~or, facility, or program~~ for the treatment of ~~developmental~~ 22009  
~~disabilities~~ mental retardation be continued during the pendency 22010  
of the trial on the applicable offenses described in division 22011  
(C)(1) of section 2945.38 of the Revised Code. 22012

(ii) If the trial court determines that the defendant no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the department of mental health or to an institution ~~or, facility, or program~~ for the treatment of ~~developmental disabilities~~ mental retardation shall not be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code. This order shall be a final termination of the commitment for purposes of division (J)(1)(c) of this section.

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order that the defendant continues to be incompetent to stand trial, that the defendant's commitment to the department of mental health or to an institution ~~or, facility, or program~~ for the treatment of ~~developmental disabilities~~ mental retardation shall be continued, and that the defendant remains subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section.

**Sec. 2961.22.** (A)(1) Any prisoner serving a prison term in a state correctional institution who satisfies all of the following is eligible to apply to the department of rehabilitation and correction at a time specified in division (A)(2) of this section and in accordance with division (D) of this section for a certificate of achievement and employability:

(a) The prisoner has satisfactorily completed one or more

in-prison vocational programs approved by rule by the department 22044  
of rehabilitation and correction. 22045

(b) The prisoner has demonstrated exemplary performance as 22046  
determined by completion of one or more cognitive or behavioral 22047  
improvement programs approved by rule by the department while 22048  
incarcerated in a state correctional institution, while under 22049  
supervision, or during both periods of time. 22050

(c) The prisoner has completed community service hours. 22051

(d) The prisoner shows other evidence of achievement and 22052  
rehabilitation while under the jurisdiction of the department. 22053

(2) An eligible prisoner may apply to the department of 22054  
rehabilitation and correction under division (A)(1) of this 22055  
section for a certificate of achievement and employability no 22056  
earlier than one year prior to the date scheduled for the release 22057  
of the prisoner from department custody and no later than the date 22058  
of release of the prisoner. 22059

(B)(1) Any prisoner who has been released from a state 22060  
correctional institution, who is under supervision on parole or 22061  
under a post-release control sanction, and who satisfies all of 22062  
the criteria set forth in division (A)(1) of this section is 22063  
eligible to apply to the adult parole authority at a time 22064  
specified in division (B)(2) of this section and in accordance 22065  
with division (D) of this section for a certificate of achievement 22066  
and employability. 22067

(2) An eligible prisoner may apply to the adult parole 22068  
authority under division (B)(1) of this section for a certificate 22069  
of achievement and employability at any time while the prisoner is 22070  
under supervision on parole or under a post-release control 22071  
sanction. 22072

(C)(1) An eligible prisoner may apply to the department of 22073  
rehabilitation and correction or to the adult parole authority at 22074

a time specified in division (A) or (B) of this section, whichever is applicable, for a certificate of achievement and employability that grants the prisoner relief from one or more mandatory civil impacts that would affect a potential job within a field in which the prisoner trained as part of the prisoner's in-prison vocational program. The prisoner shall specify the mandatory civil impacts from which the prisoner is requesting relief under the certificate. Upon application by a prisoner in accordance with this division, if the mandatory civil impact of any licensing agency would be affected by the issuance of the certificate to the prisoner, the department or authority shall notify the licensing agency of the filing of the application, provide the licensing agency with a copy of the application and all evidence that the department, authority, or court has regarding the prisoner, and afford the licensing agency with an opportunity to object in writing to the issuance of the certificate to the prisoner.

(2) Upon application by a prisoner in accordance with division (C)(1) of this section, the department of rehabilitation and correction or the adult parole authority, whichever is applicable, shall consider the application and all objections to the issuance of a certificate of achievement and employability to the prisoner, if any, that were made by a licensing agency under division (C)(1) of this section. If the department or authority determines that the prisoner is an eligible prisoner, that the application was filed at a time specified in division (B) of this section, and that any licensing agency objections to the issuance of the certificate to the prisoner are not sufficient to deny the issuance of the certificate to the prisoner, subject to division (C)(3) of this section, the department or authority shall issue the prisoner a certificate of achievement and employability that grants the prisoner relief from the mandatory civil impacts that are specified in the prisoner's application and that would affect a potential job within a field in which the prisoner trained as

part of the prisoner's in-prison vocational program. 22108

(3) The mandatory civil impacts identified in division (A)(1) 22109  
of section 2961.01 and in division (B) of section 2961.02 of the 22110  
Revised Code shall not be affected by any certificate of 22111  
achievement and employability issued under this section. No 22112  
certificate of achievement and employability issued to a prisoner 22113  
under this section grants the prisoner relief from the mandatory 22114  
civil impacts identified in division (A)(1) of section 2961.01 and 22115  
in division (B) of section 2961.02 of the Revised Code. 22116

(E) The department of rehabilitation and correction shall 22117  
adopt rules that define in-prison vocational programs and 22118  
cognitive or behavioral improvement programs that a prisoner may 22119  
complete to satisfy the criteria described in divisions (A)(1)(a) 22120  
and (b) of this section. 22121

(F) The department of rehabilitation and correction and the 22122  
adult parole authority shall not be liable for any claim for 22123  
damages arising from the department's or authority's issuance, 22124  
denial, or revocation of a certificate of achievement and 22125  
employability or for the department's or authority's failure to 22126  
revoke a certificate of achievement and employability under the 22127  
circumstances described in section 2961.24 of the Revised Code. 22128

**Sec. 2967.03.** The adult parole authority may exercise its 22129  
functions and duties in relation to the pardon, commutation of 22130  
sentence, or reprieve of a convict upon direction of the governor 22131  
or upon its own initiative. It may exercise its functions and 22132  
duties in relation to the parole of a prisoner who is eligible for 22133  
parole upon the initiative of the head of the institution in which 22134  
the prisoner is confined or upon its own initiative. When a 22135  
prisoner becomes eligible for parole, the head of the institution 22136  
in which the prisoner is confined shall notify the authority in 22137  
the manner prescribed by the authority. The authority may 22138

investigate and examine, or cause the investigation and 22139  
examination of, prisoners confined in state correctional 22140  
institutions concerning their conduct in the institutions, their 22141  
mental and moral qualities and characteristics, their knowledge of 22142  
a trade or profession, their former means of livelihood, their 22143  
family relationships, and any other matters affecting their 22144  
fitness to be at liberty without being a threat to society. 22145

The authority may recommend to the governor the pardon, 22146  
commutation of sentence, ~~medical release~~, or reprieve of any 22147  
convict or prisoner or grant a parole to any prisoner for whom 22148  
parole is authorized, if in its judgment there is reasonable 22149  
ground to believe that granting a pardon, commutation, ~~medical~~ 22150  
~~release~~, or reprieve to the convict or paroling the prisoner would 22151  
further the interests of justice and be consistent with the 22152  
welfare and security of society. However, the authority shall not 22153  
recommend a pardon, or commutation of sentence, ~~or medical release~~ 22154  
~~of~~, or grant a parole to, any convict or prisoner until the 22155  
authority has complied with the applicable notice requirements of 22156  
sections 2930.16 and 2967.12 of the Revised Code and until it has 22157  
considered any statement made by a victim or a victim's 22158  
representative that is relevant to the convict's or prisoner's 22159  
case and that was sent to the authority pursuant to section 22160  
2930.17 of the Revised Code, any other statement made by a victim 22161  
or a victim's representative that is relevant to the convict's or 22162  
prisoner's case and that was received by the authority after it 22163  
provided notice of the pendency of the action under sections 22164  
2930.16 and 2967.12 of the Revised Code, and any written statement 22165  
of any person submitted to the court pursuant to division (G) of 22166  
section 2967.12 of the Revised Code. If a victim, victim's 22167  
representative, or the victim's spouse, parent, sibling, or child 22168  
appears at a full board hearing of the parole board and gives 22169  
testimony as authorized by section 5149.101 of the Revised Code, 22170  
the authority shall consider the testimony in determining whether 22171

to grant a parole. The trial judge and prosecuting attorney of the 22172  
trial court in which a person was convicted shall furnish to the 22173  
authority, at the request of the authority, a summarized statement 22174  
of the facts proved at the trial and of all other facts having 22175  
reference to the propriety of recommending a pardon, commutation, 22176  
or medical release, or granting a parole, together with a 22177  
recommendation for or against a pardon, commutation, medical 22178  
release, or parole, and the reasons for the recommendation. The 22179  
trial judge, the prosecuting attorney, specified law enforcement 22180  
agency members, and a representative of the prisoner may appear at 22181  
a full board hearing of the parole board and give testimony in 22182  
regard to the grant of a parole to the prisoner as authorized by 22183  
section 5149.101 of the Revised Code. All state and local 22184  
officials shall furnish information to the authority, when so 22185  
requested by it in the performance of its duties. 22186

The adult parole authority shall exercise its functions and 22187  
duties in relation to the release of prisoners who are serving a 22188  
stated prison term in accordance with section 2967.28 of the 22189  
Revised Code. 22190

**Sec. 2967.05.** (A) As used in this section: 22191

(1) "Imminent danger of death" means that the inmate has a 22192  
medically diagnosable condition that will cause death to occur 22193  
within a short period of time. 22194

As used in division (A)(1) of this section, "within a short 22195  
period of time" means generally within six months. 22196

(2)(a) "Medically incapacitated" means any diagnosable 22197  
medical condition, including mental dementia and severe, permanent 22198  
medical or cognitive disability, that prevents the inmate from 22199  
completing activities of daily living without significant 22200  
assistance, that incapacitates the inmate to the extent that 22201  
institutional confinement does not offer additional restrictions, 22202

that is likely to continue throughout the entire period of parole, 22203  
and that is unlikely to improve noticeably. 22204

(b) "Medically incapacitated" does not include conditions 22205  
related solely to mental illness unless the mental illness is 22206  
accompanied by injury, disease, or organic defect. 22207

(3)(a) "Terminal illness" means a condition that satisfies 22208  
all of the following criteria: 22209

(i) The condition is irreversible and incurable and is caused 22210  
by disease, illness, or injury from which the inmate is unlikely 22211  
to recover. 22212

(ii) In accordance with reasonable medical standards and a 22213  
reasonable degree of medical certainty, the condition is likely to 22214  
cause death to the inmate within twelve months. 22215

(iii) Institutional confinement of the inmate does not offer 22216  
additional protections for public safety or against the inmate's 22217  
risk to reoffend. 22218

(b) The department of rehabilitation and correction shall 22219  
adopt rules pursuant to Chapter 119. of the Revised Code to 22220  
implement the definition of "terminal illness" in division 22221  
(A)(3)(a) of this section. 22222

(B) Upon the recommendation of the director of rehabilitation 22223  
and correction, accompanied by a certificate of the attending 22224  
physician that an inmate is terminally ill, medically 22225  
incapacitated, or in imminent danger of death, the governor may 22226  
order the inmate's release as if on parole, reserving the right to 22227  
return the inmate to the institution pursuant to this section. If, 22228  
subsequent to the inmate's release, the inmate's health improves 22229  
so that the inmate is no longer terminally ill, medically 22230  
incapacitated, or in imminent danger of death, the inmate shall be 22231  
returned, by order of the governor, to the institution from which 22232  
the inmate was released. If the inmate violates any rules or 22233

conditions applicable to the inmate, the inmate may be returned to 22234  
an institution under the control of the department of 22235  
rehabilitation and correction. The governor may direct the adult 22236  
parole authority to investigate or cause to be investigated the 22237  
inmate and make a recommendation ~~in the manner set forth in~~ 22238  
~~section 2967.03 of the Revised Code.~~ An inmate released under this 22239  
section shall be subject to supervision by the adult parole 22240  
authority in accordance with any recommendation of the adult 22241  
parole authority that is approved by the governor. The adult 22242  
parole authority shall adopt rules pursuant to section 119.03 of 22243  
the Revised Code to establish the procedure for medical release of 22244  
an inmate when an inmate is terminally ill, medically 22245  
incapacitated, or in imminent danger of death. 22246

(C) No inmate is eligible for release under this section if 22247  
the inmate is serving a death sentence, a sentence of life without 22248  
parole, a sentence under Chapter 2971. of the Revised Code for a 22249  
felony of the first or second degree, a sentence for aggravated 22250  
murder or murder, or a mandatory prison term for an offense of 22251  
violence or any specification described in Chapter 2941. of the 22252  
Revised Code. 22253

**Sec. 2967.14.** (A) The department of rehabilitation and 22254  
correction or the adult parole authority may require or allow a 22255  
parolee, a releasee, or a prisoner otherwise released from a state 22256  
correctional institution to reside in a halfway house or other 22257  
suitable community residential center that has been licensed by 22258  
the division of parole and community services pursuant to division 22259  
(C) of this section during a part or for the entire period of the 22260  
offender's or parolee's conditional release or of the releasee's 22261  
term of post-release control. The court of common pleas that 22262  
placed an offender under a sanction consisting of a term in a 22263  
halfway house or in an alternative residential sanction may 22264  
require the offender to reside in a halfway house or other 22265

suitable community residential center that is designated by the 22266  
court and that has been licensed by the division pursuant to 22267  
division (C) of this section during a part or for the entire 22268  
period of the offender's residential sanction. 22269

(B) The division of parole and community services may 22270  
negotiate and enter into agreements with any public or private 22271  
agency or a department or political subdivision of the state that 22272  
operates a halfway house, reentry center, or community residential 22273  
center that has been licensed by the division pursuant to division 22274  
(C) of this section. An agreement under this division shall 22275  
provide for the purchase of beds, shall set limits of supervision 22276  
and levels of occupancy, and shall determine the scope of services 22277  
for all eligible offenders, including those subject to a 22278  
residential sanction, as defined in rules adopted by the director 22279  
of rehabilitation and correction in accordance with Chapter 119. 22280  
of the Revised Code, or those released from prison without 22281  
supervision. The payments for beds and services shall not exceed 22282  
the total operating costs of the halfway house, reentry center, or 22283  
community residential center during the term of an agreement. The 22284  
director of rehabilitation and correction shall adopt rules in 22285  
accordance with Chapter 119. of the Revised Code for determining 22286  
includable and excludable costs and income to be used in computing 22287  
the agency's average daily per capita costs with its facility at 22288  
full occupancy. 22289

The ~~department~~ director of rehabilitation and correction ~~may~~ 22290  
shall adopt rules providing for the use of no more than ten 22291  
fifteen per cent of the amount appropriated to the department each 22292  
fiscal year for the halfway house, reentry center, and community 22293  
residential center program to pay for contracts with licensed 22294  
halfway houses for nonresidential services for offenders under the 22295  
supervision of the adult parole authority, including but not 22296  
limited to, offenders supervised pursuant to an agreement entered 22297

into by the adult parole authority and a court of common pleas 22298  
under section 2301.32 of the Revised Code. The nonresidential 22299  
services may include, but are not limited to, treatment for 22300  
substance abuse, mental health counseling, counseling for sex 22301  
offenders, ~~and~~ electronic monitoring services, aftercare, and 22302  
other nonresidential services that the director identifies by 22303  
rule. 22304

(C) The division of parole and community services may license 22305  
a halfway house, reentry center, or community residential center 22306  
as a suitable facility for the care and treatment of adult 22307  
offenders, including offenders sentenced under section 2929.16 or 22308  
2929.26 of the Revised Code, only if the halfway house, reentry 22309  
center, or community residential center complies with the 22310  
standards that the division adopts in accordance with Chapter 119. 22311  
of the Revised Code for the licensure of halfway houses, reentry 22312  
centers, and community residential centers. The division shall 22313  
annually inspect each licensed halfway house, licensed reentry 22314  
center, and licensed community residential center to determine if 22315  
it is in compliance with the licensure standards. 22316

**Sec. 2967.19.** (A) As used in this section: 22317

(1) "Deadly weapon" and "dangerous ordnance" have the same 22318  
meanings as in section 2923.11 of the Revised Code. 22319

(2) "Disqualifying prison term" means any of the following: 22320

(a) A prison term imposed for aggravated murder, murder, 22321  
voluntary manslaughter, involuntary manslaughter, felonious 22322  
assault, kidnapping, rape, aggravated arson, aggravated burglary, 22323  
or aggravated robbery; 22324

(b) A prison term imposed for complicity in, an attempt to 22325  
commit, or conspiracy to commit any offense listed in division 22326  
(A)(2)(a) of this section; 22327

|   |  |
|---|--|
| (c) A prison term of life imprisonment, including any term of life imprisonment that has parole eligibility;  | 22328<br>22329                                     |
| (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;   | 22330<br>22331<br>22332<br>22333                   |
| (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;  | 22334<br>22335<br>22336                            |
| (f) A prison term imposed for engaging in a pattern of corrupt activity in violation of section 2923.32 of the Revised Code;  | 22337<br>22338<br>22339                            |
| (g) A prison term imposed pursuant to section 2971.03 of the Revised Code;  | 22340<br>22341                                     |
| (h) A prison term imposed for any sexually oriented offense.  | 22342  |
| (3) "Eligible prison term" means any prison term that is not a disqualifying prison term and is not a restricting prison term.  | 22343<br>22344                                     |
| (4) "Restricting prison term" means any of the following:   | 22345  |
| (a) A mandatory prison term imposed under division <del>(D)</del> (B)(1)(a), <del>(D)</del> (B)(1)(c), <del>(D)</del> (B)(1)(f), <del>(D)</del> (B)(1)(g), <del>(D)</del> (B)(2), or <del>(D)</del> (B)(7) of section 2929.14 of the Revised Code for a specification of the type described in that division;   | 22346<br>22347<br>22348<br>22349                   |
| (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; | 22350<br>22351<br>22352<br>22353<br>22354<br>22355 |
| (c) A prison term imposed for trafficking in persons;   | 22356  |
| (d) A prison term imposed for any offense that is described   | 22357  |

in division (A)(4)(d)(i) of this section if division (A)(4)(d)(ii) 22358  
of this section applies to the offender: 22359

(i) The offense is a felony of the first or second degree 22360  
that is an offense of violence and that is not described in 22361  
division (A)(2)(a) or (b) of this section, an attempt to commit a 22362  
felony of the first or second degree that is an offense of 22363  
violence and that is not described in division (A)(2)(a) or (b) of 22364  
this section if the attempt is a felony of the first or second 22365  
degree, or an offense under an existing or former law of this 22366  
state, another state, or the United States that is or was 22367  
substantially equivalent to any other offense described in this 22368  
division. 22369

(ii) The offender previously was convicted of or pleaded 22370  
guilty to any offense listed in division (A)(2) or (A)(4)(d)(i) of 22371  
this section. 22372

(5) "Sexually oriented offense" has the same meaning as in 22373  
section 2950.01 of the Revised Code. 22374

(B) The director of the department of rehabilitation and 22375  
correction may ~~petition~~ recommend in writing to the sentencing 22376  
court ~~for the release that the court consider releasing~~ from 22377  
prison ~~of~~ any offender who, on or after September 30, 2011, is 22378  
confined in a state correctional institution ~~under, who is serving~~ 22379  
a stated prison term of one year or more, and who is eligible 22380  
under division (C) of this section for a release under this 22381  
section ~~and who has served at least eighty per cent of that stated~~ 22382  
~~prison term that remains to be served after the offender becomes~~ 22383  
~~eligible as described in that division.~~ If the director wishes to 22384  
~~submit a petition for release~~ recommend that the sentencing court 22385  
consider releasing an offender under this section, the director 22386  
shall ~~submit the petition~~ notify the sentencing court in writing 22387  
of the offender's eligibility not earlier than ninety days prior 22388  
to the date on which the offender ~~has served eighty per cent of~~ 22389

~~the offender's stated prison term that remains to be served after~~ 22390  
~~the offender~~ becomes eligible as described in division (C) of this 22391  
section. The director's submission of ~~a petition for release under~~ 22392  
~~this section~~ the written notice constitutes a recommendation by 22393  
the director that the court strongly consider release of the 22394  
offender consistent with the purposes and principles of sentencing 22395  
set forth in sections 2929.11 and 2929.13 of the Revised Code. 22396  
Only an offender recommended by the director under division (B) of 22397  
this section may be considered for early release under this 22398  
section. 22399

(C)(1) An offender serving a stated prison term of one year 22400  
or more and who has commenced service of that stated prison term 22401  
becomes eligible for release from prison under this section only 22402  
as described in this division. An offender serving a stated prison 22403  
term that includes a disqualifying prison term is not eligible for 22404  
release from prison under this section. An offender serving a 22405  
stated prison term that consists solely of one or more restricting 22406  
prison terms is not eligible for release under this section. An 22407  
offender serving a stated prison term of one year or more that 22408  
includes one or more restricting prison terms and one or more 22409  
eligible prison terms becomes eligible for release under this 22410  
section after having fully served ~~each~~ all restricting prison ~~term~~ 22411  
terms and having served eighty per cent of the stated prison term 22412  
that remains to be served after all restricting prison terms have 22413  
been fully served. An offender serving a stated prison term that 22414  
consists solely of one or more eligible prison terms becomes 22415  
eligible for release under this section ~~upon the offender's~~ 22416  
~~commencement of service~~ after having served eighty per cent 22417  
that stated prison term. ~~After an offender becomes eligible for~~ 22418  
~~release under this section, the director of rehabilitation and~~ 22419  
~~correction may petition for the release of the offender under~~ 22420  
~~division (C)(2) of this section no earlier than ninety days before~~ 22421  
~~the offender has served the portion of the offender's stated~~ 22422

~~prison term specified in that division.~~ For purposes of 22423  
determining an offender's eligibility for release under this 22424  
section, if the offender's stated prison term includes consecutive 22425  
prison terms, any restricting prison terms shall be deemed served 22426  
prior to any eligible prison terms that run consecutively to the 22427  
restricting prison terms, and the eligible prison terms are deemed 22428  
to commence after all of the restricting prison terms have been 22429  
fully served. 22430

An offender serving a stated prison term ~~one~~ of one year or 22431  
more that includes a mandatory prison term that is not a 22432  
disqualifying prison term and is not a restricting prison term is 22433  
not automatically ineligible as a result of the offender's service 22434  
of that mandatory term for release from prison under this section, 22435  
and the offender's eligibility for release from prison under this 22436  
section is determined in accordance with this division. 22437

(2) If an offender confined in a state correctional 22438  
institution under a stated prison term is eligible for release 22439  
under this section as described in division (C)(1) of this 22440  
section, the director of the department of rehabilitation and 22441  
correction may ~~petition~~ recommend in writing that the sentencing 22442  
court ~~pursuant to division (B) of this section for the release~~ 22443  
consider releasing the offender from prison ~~of the offender under~~ 22444  
this section by submitting to the sentencing court the written 22445  
notice described in division (B) of this section. 22446

(D) The director shall include with any ~~petition~~ notice 22447  
submitted to the sentencing court under division (B) of this 22448  
section an institutional summary report that covers the offender's 22449  
participation while confined in a state correctional institution 22450  
in school, training, work, treatment, and other rehabilitative 22451  
activities and any disciplinary action taken against the offender 22452  
while so confined. The director shall include with the ~~petition~~ a 22453  
~~post-release control assessment and placement plan, when relevant,~~ 22454

~~and~~ notice any other documentation requested by the court, if 22455  
available. 22456

(E) When the director submits a ~~petition~~ written notice to a 22457  
sentencing court that an offender is eligible to be considered for 22458  
early release under this section ~~for release of an offender~~, the 22459  
department promptly shall provide to the prosecuting attorney of 22460  
the county in which the offender was indicted a copy of the 22461  
~~petition~~ written notice, a copy of the institutional summary 22462  
report, and any other information provided to the court. The 22463  
department also promptly shall give written notice of the ~~filing~~ 22464  
~~of the petition~~ submission to any victim of the offender or 22465  
victim's representative of any victim of the offender who is 22466  
registered with the office of victim's services. 22467

The department also shall post a copy of the written notice 22468  
~~of the petition~~ on the database it maintains under section 5120.66 22469  
of the Revised Code and include information on where a person may 22470  
send comments regarding the ~~petition~~ recommendation of early 22471  
release. 22472

The information provided to the court, the prosecutor, and 22473  
the victim or victim's representative under divisions (D) and (E) 22474  
of this section shall include the name and contact information of 22475  
a specific department of rehabilitation and correction employee 22476  
who is available to answer questions about the offender who is the 22477  
subject of the written notice submitted by the director, 22478  
including, but not limited to, the offender's institutional 22479  
conduct and rehabilitative activities while incarcerated. 22480

(F) Upon receipt of a ~~petition for release of an offender~~ 22481  
written notice submitted by the director under division (B) of 22482  
this section, the court ~~may deny the petition without~~ either 22483  
shall, on its own motion, schedule a hearing to consider releasing 22484  
the offender who is the subject of the notice or shall inform the 22485  
department that it will not be conducting a hearing relative to 22486

~~the offender.~~ The court shall not grant ~~a petition for an early~~ 22487  
~~release of~~ to an offender without holding a hearing. If a court 22488  
~~denies a petition for release of an offender without~~ declines to 22489  
hold a hearing relative to an offender with respect to a written 22490  
notice submitted by the director, the court may later consider 22491  
release of that offender under this section on a ~~subsequent~~ 22492  
~~petition.~~ ~~The court shall enter its ruling within~~ its own motion 22493  
by scheduling a hearing for that purpose. Within thirty days after 22494  
the ~~petition~~ written notice is ~~filed~~ submitted, the court shall 22495  
inform the department whether or not the court is scheduling a 22496  
hearing on the offender who is the subject of the notice. 22497

(G) If the court ~~grants~~ schedules a hearing ~~on~~ upon receiving 22498  
a ~~petition for release of an offender~~ written notice submitted 22499  
under division (B) of this section or upon its own motion under 22500  
division (F) of this section, the court shall notify the head of 22501  
the state correctional institution in which the offender is 22502  
confined of the hearing prior to the hearing. If the court makes a 22503  
journal entry ordering the offender to be conveyed to the hearing, 22504  
except as otherwise provided in this division, the head of the 22505  
correctional institution shall deliver the offender to the sheriff 22506  
of the county in which the hearing is to be held, and the sheriff 22507  
shall convey the offender to and from the hearing. Upon the 22508  
court's own motion or the motion of the offender or the 22509  
prosecuting attorney of the county in which the offender was 22510  
indicted, the court may permit the offender to appear at the 22511  
hearing by video conferencing equipment if equipment of that 22512  
nature is available and compatible. 22513

Upon receipt of notice from a court of a hearing on the 22514  
release of an offender under this division, the head of the state 22515  
correctional institution in which the offender is confined 22516  
immediately shall notify the appropriate person at the department 22517  
of rehabilitation and correction of the hearing, and the 22518

department within twenty-four hours after receipt of the notice 22519  
shall post on the database it maintains pursuant to section 22520  
5120.66 of the Revised Code the offender's name and all of the 22521  
information specified in division (A)(1)(c)(i) of that section. If 22522  
the court ~~grants~~ schedules a hearing ~~on a petition for release of~~ 22523  
~~an offender~~ under this section, the court promptly shall give 22524  
notice of the hearing to the prosecuting attorney of the county in 22525  
which the offender was indicted. Upon receipt of the notice from 22526  
the court, the prosecuting attorney shall notify pursuant to 22527  
section 2930.16 of the Revised Code any victim of the offender or 22528  
the victim's representative of the hearing. 22529

(H) If the court ~~grants~~ schedules a hearing ~~on a petition for~~ 22530  
~~release of an offender~~ under this section, at the hearing, the 22531  
court shall afford the offender and the offender's attorney an 22532  
opportunity to present written information and, if present, oral 22533  
information relevant to the ~~motion~~ offender's early release. The 22534  
court shall afford a similar opportunity to the prosecuting 22535  
attorney, victim or victim's representative, as defined in section 22536  
2930.01 of the Revised Code, and any other person the court 22537  
determines is likely to present additional relevant information. 22538  
If the court pursuant to division (G) of this section permits the 22539  
offender to appear at the hearing by video conferencing equipment, 22540  
the offender's opportunity to present oral information shall be as 22541  
a part of the video conferencing. The court shall consider any 22542  
statement of a victim made under section 2930.14 or 2930.17 of the 22543  
Revised Code, any victim impact statement prepared under section 22544  
2947.051 of the Revised Code, and any report, ~~plan~~, and other 22545  
documentation submitted by the director under division (D) of this 22546  
section. After ruling on ~~the motion~~ whether to grant the offender 22547  
early release, the court shall notify the victim in accordance 22548  
with sections 2930.03 and 2930.16 of the Revised Code. 22549

(I) If the court grants ~~a petition for release of~~ an offender 22550

early release under this section, it shall order the release of 22551  
the offender, shall place the offender under one or more 22552  
appropriate community control sanctions, under appropriate 22553  
conditions, and under the supervision of the department of 22554  
probation that serves the court, and shall reserve the right to 22555  
reimpose the sentence that it reduced and from which the offender 22556  
was released if the offender violates the sanction. The court 22557  
shall not make a release under this section effective prior to the 22558  
date on which the offender ~~has served at least eighty per cent of~~ 22559  
~~the offender's stated prison term that remains to be served after~~ 22560  
~~the offender~~ becomes eligible as described in division (C) of this 22561  
section. If the sentence under which the offender is confined in a 22562  
state correctional institution and from which the offender is 22563  
being released was imposed for a felony of the first or second 22564  
degree, the court shall consider ordering that the offender be 22565  
monitored by means of a global positioning device. If the court 22566  
reimposes the sentence that it reduced and from which the offender 22567  
was released and if the violation of the sanction is a new 22568  
offense, the court may order that the reimposed sentence be served 22569  
either concurrently with, or consecutive to, any new sentence 22570  
imposed upon the offender as a result of the violation that is a 22571  
new offense. The period of all community control sanctions imposed 22572  
under this division shall not exceed five years. The court, in its 22573  
discretion, may reduce the period of community control sanctions 22574  
by the amount of time the offender spent in jail or prison for the 22575  
offense. 22576

If the court grants ~~a petition for release of~~ an offender 22577  
early release under this section, it shall notify the appropriate 22578  
person at the department of rehabilitation and correction of the 22579  
release, and the department shall post notice of the release on 22580  
the database it maintains pursuant to section 5120.66 of the 22581  
Revised Code. 22582

(J) The department shall adopt under Chapter 119. of the Revised Code any rules necessary to implement this section.

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**Sec. 2967.191.** The department of rehabilitation and correction shall reduce the stated prison term of a prisoner or, if the prisoner is serving a term for which there is parole eligibility, the minimum and maximum term or the parole eligibility date of the prisoner by the total number of days that the prisoner was confined for any reason arising out of the offense for which the prisoner was convicted and sentenced, including confinement in lieu of bail while awaiting trial, confinement for examination to determine the prisoner's competence to stand trial or sanity, and confinement while awaiting transportation to the place where the prisoner is to serve the prisoner's prison term, as determined by the sentencing court under division (B)(2)(h)(i) of section 2929.19 of the Revised Code. The department of rehabilitation and correction also shall reduce the stated prison term of a prisoner or, if the prisoner is serving a term for which there is parole eligibility, the minimum and maximum term or the parole eligibility date of the prisoner by the total number of days, if any, that the prisoner previously served in the custody of the department of rehabilitation and correction arising out of the offense for which the prisoner was convicted and sentenced.

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**Sec. 2967.26.** (A)(1) The department of rehabilitation and correction, by rule, may establish a transitional control program for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final one hundred eighty days of the prisoner's confinement. If the department establishes a transitional control program under this division, the adult parole authority may transfer eligible prisoners to transitional control status under the program during the final one hundred eighty days

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of their confinement and under the terms and conditions 22614  
established by the department, shall provide for the confinement 22615  
as provided in this division of each eligible prisoner so 22616  
transferred, and shall supervise each eligible prisoner so 22617  
transferred in one or more community control sanctions. Each 22618  
eligible prisoner who is transferred to transitional control 22619  
status under the program shall be confined in a suitable facility 22620  
that is licensed pursuant to division (C) of section 2967.14 of 22621  
the Revised Code, or shall be confined in a residence the 22622  
department has approved for this purpose and be monitored pursuant 22623  
to an electronic monitoring device, as defined in section 2929.01 22624  
of the Revised Code. If the department establishes a transitional 22625  
control program under this division, the rules establishing the 22626  
program shall include criteria that define which prisoners are 22627  
eligible for the program, criteria that must be satisfied to be 22628  
approved as a residence that may be used for confinement under the 22629  
program of a prisoner that is transferred to it and procedures for 22630  
the department to approve residences that satisfy those criteria, 22631  
and provisions of the type described in division (C) of this 22632  
section. At a minimum, the criteria that define which prisoners 22633  
are eligible for the program shall provide all of the following: 22634

(a) That a prisoner is eligible for the program if the 22635  
prisoner is serving a prison term or term of imprisonment for an 22636  
offense committed prior to March 17, 1998, and if, at the time at 22637  
which eligibility is being determined, the prisoner would have 22638  
been eligible for a furlough under this section as it existed 22639  
immediately prior to March 17, 1998, or would have been eligible 22640  
for conditional release under former section 2967.23 of the 22641  
Revised Code as that section existed immediately prior to March 22642  
17, 1998; 22643

(b) That no prisoner who is serving a mandatory prison term 22644  
is eligible for the program until after expiration of the 22645

mandatory term; 22646

(c) That no prisoner who is serving a prison term or term of 22647  
life imprisonment without parole imposed pursuant to section 22648  
2971.03 of the Revised Code is eligible for the program. 22649

(2) At least three weeks prior to transferring to 22650  
transitional control under this section a prisoner who is serving 22651  
a term of imprisonment or prison term for an offense committed on 22652  
or after July 1, 1996, the ~~adult~~ division of parole authority and 22653  
community services of the department of rehabilitation and 22654  
correction shall give notice of the pendency of the transfer to 22655  
transitional control to the court of common pleas of the county in 22656  
which the indictment against the prisoner was found and of the 22657  
fact that the court may disapprove the transfer of the prisoner to 22658  
transitional control and shall include a report prepared by the 22659  
head of the state correctional institution in which the prisoner 22660  
is confined. The head of the state correctional institution in 22661  
which the prisoner is confined, upon the request of the adult 22662  
parole authority, shall provide to the authority for inclusion in 22663  
the notice sent to the court under this division a report on the 22664  
prisoner's conduct in the institution and in any institution from 22665  
which the prisoner may have been transferred. The report shall 22666  
cover the prisoner's participation in school, vocational training, 22667  
work, treatment, and other rehabilitative activities and any 22668  
disciplinary action taken against the prisoner. If the court 22669  
disapproves of the transfer of the prisoner to transitional 22670  
control, the court shall notify the authority of the disapproval 22671  
within thirty days after receipt of the notice. If the court 22672  
timely disapproves the transfer of the prisoner to transitional 22673  
control, the authority shall not proceed with the transfer. If the 22674  
court does not timely disapprove the transfer of the prisoner to 22675  
transitional control, the authority may transfer the prisoner to 22676  
transitional control. 22677

(3) If the victim of an offense for which a prisoner was 22678  
sentenced to a prison term or term of imprisonment has requested 22679  
notification under section 2930.16 of the Revised Code and has 22680  
provided the department of rehabilitation and correction with the 22681  
victim's name and address, the adult parole authority, at least 22682  
three weeks prior to transferring the prisoner to transitional 22683  
control pursuant to this section, shall notify the victim of the 22684  
pendency of the transfer and of the victim's right to submit a 22685  
statement to the authority regarding the impact of the transfer of 22686  
the prisoner to transitional control. If the victim subsequently 22687  
submits a statement of that nature to the authority, the authority 22688  
shall consider the statement in deciding whether to transfer the 22689  
prisoner to transitional control. 22690

(4) The department of rehabilitation and correction, at least 22691  
three weeks prior to transferring a prisoner to transitional 22692  
control pursuant to this section, shall post on the database it 22693  
maintains pursuant to section 5120.66 of the Revised Code the 22694  
prisoner's name and all of the information specified in division 22695  
(A)(1)(c)(iv) of that section. In addition to and independent of 22696  
the right of a victim to submit a statement as described in 22697  
division (A)(3) of this section or to otherwise make a statement 22698  
and in addition to and independent of any other right or duty of a 22699  
person to present information or make a statement, any person may 22700  
send to the adult parole authority at any time prior to the 22701  
authority's transfer of the prisoner to transitional control a 22702  
written statement regarding the transfer of the prisoner to 22703  
transitional control. In addition to the information, reports, and 22704  
statements it considers under divisions (A)(2) and (3) of this 22705  
section or that it otherwise considers, the authority shall 22706  
consider each statement submitted in accordance with this division 22707  
in deciding whether to transfer the prisoner to transitional 22708  
control. 22709

(B) Each prisoner transferred to transitional control under 22710  
this section shall be confined in the manner described in division 22711  
(A) of this section during any period of time that the prisoner is 22712  
not actually working at the prisoner's approved employment, 22713  
engaged in a vocational training or another educational program, 22714  
engaged in another program designated by the director, or engaged 22715  
in other activities approved by the department. 22716

(C) The department of rehabilitation and correction shall 22717  
adopt rules for transferring eligible prisoners to transitional 22718  
control, supervising and confining prisoners so transferred, 22719  
administering the transitional control program in accordance with 22720  
this section, and using the moneys deposited into the transitional 22721  
control fund established under division (E) of this section. 22722

(D) The department of rehabilitation and correction may adopt 22723  
rules for the issuance of passes for the limited purposes 22724  
described in this division to prisoners who are transferred to 22725  
transitional control under this section. If the department adopts 22726  
rules of that nature, the rules shall govern the granting of the 22727  
passes and shall provide for the supervision of prisoners who are 22728  
temporarily released pursuant to one of those passes. Upon the 22729  
adoption of rules under this division, the department may issue 22730  
passes to prisoners who are transferred to transitional control 22731  
status under this section in accordance with the rules and the 22732  
provisions of this division. All passes issued under this division 22733  
shall be for a maximum of forty-eight hours and may be issued only 22734  
for the following purposes: 22735

(1) To visit a relative in imminent danger of death; 22736

(2) To have a private viewing of the body of a deceased 22737  
relative; 22738

(3) To visit with family; 22739

(4) To otherwise aid in the rehabilitation of the prisoner. 22740

(E) The adult parole authority may require a prisoner who is transferred to transitional control to pay to the division of parole and community services the reasonable expenses incurred by the division in supervising or confining the prisoner while under transitional control. Inability to pay those reasonable expenses shall not be grounds for refusing to transfer an otherwise eligible prisoner to transitional control. Amounts received by the division of parole and community services under this division shall be deposited into the transitional control fund, which is hereby created in the state treasury and which hereby replaces and succeeds the furlough services fund that formerly existed in the state treasury. All moneys that remain in the furlough services fund on March 17, 1998, shall be transferred on that date to the transitional control fund. The transitional control fund shall be used solely to pay costs related to the operation of the transitional control program established under this section. The director of rehabilitation and correction shall adopt rules in accordance with section 111.15 of the Revised Code for the use of the fund.

(F) A prisoner who violates any rule established by the department of rehabilitation and correction under division (A), (C), or (D) of this section may be transferred to a state correctional institution pursuant to rules adopted under division (A), (C), or (D) of this section, but the prisoner shall receive credit towards completing the prisoner's sentence for the time spent under transitional control.

If a prisoner is transferred to transitional control under this section, upon successful completion of the period of transitional control, the prisoner may be released on parole or under post-release control pursuant to section 2967.13 or 2967.28 of the Revised Code and rules adopted by the department of rehabilitation and correction. If the prisoner is released under

post-release control, the duration of the post-release control, 22773  
the type of post-release control sanctions that may be imposed, 22774  
the enforcement of the sanctions, and the treatment of prisoners 22775  
who violate any sanction applicable to the prisoner are governed 22776  
by section 2967.28 of the Revised Code. 22777

**Sec. 2967.28.** (A) As used in this section: 22778

(1) "Monitored time" means the monitored time sanction 22779  
specified in section 2929.17 of the Revised Code. 22780

(2) "Deadly weapon" and "dangerous ordnance" have the same 22781  
meanings as in section 2923.11 of the Revised Code. 22782

(3) "Felony sex offense" means a violation of a section 22783  
contained in Chapter 2907. of the Revised Code that is a felony. 22784

(4) "Risk reduction sentence" means a prison term imposed by 22785  
a court, when the court recommends pursuant to section 2929.143 of 22786  
the Revised Code that the offender serve the sentence under 22787  
section 5120.036 of the Revised Code, and the offender may 22788  
potentially be released from imprisonment prior to the expiration 22789  
of the prison term if the offender successfully completes all 22790  
assessment and treatment or programming required by the department 22791  
of rehabilitation and correction under section 5120.036 of the 22792  
Revised Code. 22793

(B) Each sentence to a prison term for a felony of the first 22794  
degree, for a felony of the second degree, for a felony sex 22795  
offense, or for a felony of the third degree that is not a felony 22796  
sex offense and in the commission of which the offender caused or 22797  
threatened to cause physical harm to a person shall include a 22798  
requirement that the offender be subject to a period of 22799  
post-release control imposed by the parole board after the 22800  
offender's release from imprisonment. This division applies with 22801  
respect to all prison terms of a type described in this division, 22802

including a term of any such type that is a risk reduction 22803  
sentence. If a court imposes a sentence including a prison term of 22804  
a type described in this division on or after July 11, 2006, the 22805  
failure of a sentencing court to notify the offender pursuant to 22806  
division (B)(2)(c) of section 2929.19 of the Revised Code of this 22807  
requirement or to include in the judgment of conviction entered on 22808  
the journal a statement that the offender's sentence includes this 22809  
requirement does not negate, limit, or otherwise affect the 22810  
mandatory period of supervision that is required for the offender 22811  
under this division. Section 2929.191 of the Revised Code applies 22812  
if, prior to July 11, 2006, a court imposed a sentence including a 22813  
prison term of a type described in this division and failed to 22814  
notify the offender pursuant to division (B)(2)(c) of section 22815  
2929.19 of the Revised Code regarding post-release control or to 22816  
include in the judgment of conviction entered on the journal or in 22817  
the sentence pursuant to division (D)(1) of section 2929.14 of the 22818  
Revised Code a statement regarding post-release control. Unless 22819  
reduced by the parole board pursuant to division (D) of this 22820  
section when authorized under that division, a period of 22821  
post-release control required by this division for an offender 22822  
shall be of one of the following periods: 22823

(1) For a felony of the first degree or for a felony sex 22824  
offense, five years; 22825

(2) For a felony of the second degree that is not a felony 22826  
sex offense, three years; 22827

(3) For a felony of the third degree that is not a felony sex 22828  
offense and in the commission of which the offender caused or 22829  
threatened physical harm to a person, three years. 22830

(C) Any sentence to a prison term for a felony of the third, 22831  
fourth, or fifth degree that is not subject to division (B)(1) or 22832  
(3) of this section shall include a requirement that the offender 22833  
be subject to a period of post-release control of up to three 22834

years after the offender's release from imprisonment, if the 22835  
parole board, in accordance with division (D) of this section, 22836  
determines that a period of post-release control is necessary for 22837  
that offender. This division applies with respect to all prison 22838  
terms of a type described in this division, including a term of 22839  
any such type that is a risk reduction sentence. Section 2929.191 22840  
of the Revised Code applies if, prior to July 11, 2006, a court 22841  
imposed a sentence including a prison term of a type described in 22842  
this division and failed to notify the offender pursuant to 22843  
division (B)(2)(d) of section 2929.19 of the Revised Code 22844  
regarding post-release control or to include in the judgment of 22845  
conviction entered on the journal or in the sentence pursuant to 22846  
division (D)(2) of section 2929.14 of the Revised Code a statement 22847  
regarding post-release control. Pursuant to an agreement entered 22848  
into under section 2967.29 of the Revised Code, a court of common 22849  
pleas or parole board may impose sanctions or conditions on an 22850  
offender who is placed on post-release control under this 22851  
division. 22852

(D)(1) Before the prisoner is released from imprisonment, the 22853  
parole board or, pursuant to an agreement under section 2967.29 of 22854  
the Revised Code, the court shall impose upon a prisoner described 22855  
in division (B) of this section, shall impose upon a prisoner 22856  
described in division (C) of this section who is to be released 22857  
before the expiration of the prisoner's stated prison term under a 22858  
risk reduction sentence, may impose upon a prisoner described in 22859  
division (C) of this section who is not to be released before the 22860  
expiration of the prisoner's stated prison term under a risk 22861  
reduction sentence, and shall impose upon a prisoner described in 22862  
division (B)(2)(b) of section 5120.031 or in division (B)(1) of 22863  
section 5120.032 of the Revised Code, one or more post-release 22864  
control sanctions to apply during the prisoner's period of 22865  
post-release control. Whenever the board or court imposes one or 22866  
more post-release control sanctions upon a prisoner, the board or 22867

court, in addition to imposing the sanctions, also shall include 22868  
as a condition of the post-release control that the offender not 22869  
leave the state without permission of the court or the offender's 22870  
parole or probation officer and that the offender abide by the 22871  
law. The board or court may impose any other conditions of release 22872  
under a post-release control sanction that the board or court 22873  
considers appropriate, and the conditions of release may include 22874  
any community residential sanction, community nonresidential 22875  
sanction, or financial sanction that the sentencing court was 22876  
authorized to impose pursuant to sections 2929.16, 2929.17, and 22877  
2929.18 of the Revised Code. Prior to the release of a prisoner 22878  
for whom it will impose one or more post-release control sanctions 22879  
under this division, the parole board or court shall review the 22880  
prisoner's criminal history, results from the single validated 22881  
risk assessment tool selected by the department of rehabilitation 22882  
and correction under section 5120.114 of the Revised Code, all 22883  
juvenile court adjudications finding the prisoner, while a 22884  
juvenile, to be a delinquent child, and the record of the 22885  
prisoner's conduct while imprisoned. The parole board or court 22886  
shall consider any recommendation regarding post-release control 22887  
sanctions for the prisoner made by the office of victims' 22888  
services. After considering those materials, the board or court 22889  
shall determine, for a prisoner described in division (B) of this 22890  
section, division (B)(2)(b) of section 5120.031, or division 22891  
(B)(1) of section 5120.032 of the Revised Code and for a prisoner 22892  
described in division (C) of this section who is to be released 22893  
before the expiration of the prisoner's stated prison term under a 22894  
risk reduction sentence, which post-release control sanction or 22895  
combination of post-release control sanctions is reasonable under 22896  
the circumstances or, for a prisoner described in division (C) of 22897  
this section who is not to be released before the expiration of 22898  
the prisoner's stated prison term under a risk reduction sentence, 22899  
whether a post-release control sanction is necessary and, if so, 22900

which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances. In the case of a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, the board or court shall presume that monitored time is the appropriate post-release control sanction unless the board or court determines that a more restrictive sanction is warranted. A post-release control sanction imposed under this division takes effect upon the prisoner's release from imprisonment.

Regardless of whether the prisoner was sentenced to the prison term prior to, on, or after July 11, 2006, prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board shall notify the prisoner that, if the prisoner violates any sanction so imposed or any condition of post-release control described in division (B) of section 2967.131 of the Revised Code that is imposed on the prisoner, the parole board may impose a prison term of up to one-half of the stated prison term originally imposed upon the prisoner.

(2) If a prisoner who is placed on post-release control under this section is released before the expiration of the prisoner's stated prison term by reason of credit earned under section 2967.193 of the Revised Code and if the prisoner earned sixty or more days of credit, the adult parole authority shall supervise the offender with an active global positioning system device for the first fourteen days after the offender's release from imprisonment. This division does not prohibit or limit the imposition of any post-release control sanction otherwise authorized by this section.

(3) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority or,

pursuant to an agreement under section 2967.29 of the Revised Code, the court may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority or court may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. The authority also may recommend that the parole board or court increase or reduce the duration of the period of post-release control imposed by the court. If the authority recommends that the board or court increase the duration of post-release control, the board or court shall review the releasee's behavior and may increase the duration of the period of post-release control imposed by the court up to eight years. If the authority recommends that the board or court reduce the duration of control for an offense described in division (B) or (C) of this section, the board or court shall review the releasee's behavior and may reduce the duration of the period of control imposed by the court. In no case shall the board or court reduce the duration of the period of control imposed for an offense described in division (B)(1) of this section to a period less than the length of the stated prison term originally imposed, and in no case shall the board or court permit the releasee to leave the state without permission of the court or the releasee's parole or probation officer.

(E) The department of rehabilitation and correction, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish standards for the imposition by the parole board of post-release control sanctions under this section that are consistent with the overriding purposes and sentencing principles set forth in section 2929.11 of the Revised Code and

that are appropriate to the needs of releasees; 22965

(2) Establish standards that provide for a period of 22966  
post-release control of up to three years for all prisoners 22967  
described in division (C) of this section who are to be released 22968  
before the expiration of their stated prison term under a risk 22969  
reduction sentence and standards by which the parole board can 22970  
determine which prisoners described in division (C) of this 22971  
section who are not to be released before the expiration of their 22972  
stated prison term under a risk reduction sentence should be 22973  
placed under a period of post-release control; 22974

(3) Establish standards to be used by the parole board in 22975  
reducing the duration of the period of post-release control 22976  
imposed by the court when authorized under division (D) of this 22977  
section, in imposing a more restrictive post-release control 22978  
sanction than monitored time upon a prisoner convicted of a felony 22979  
of the fourth or fifth degree other than a felony sex offense, or 22980  
in imposing a less restrictive control sanction upon a releasee 22981  
based on the releasee's activities including, but not limited to, 22982  
remaining free from criminal activity and from the abuse of 22983  
alcohol or other drugs, successfully participating in approved 22984  
rehabilitation programs, maintaining employment, and paying 22985  
restitution to the victim or meeting the terms of other financial 22986  
sanctions; 22987

(4) Establish standards to be used by the adult parole 22988  
authority in modifying a releasee's post-release control sanctions 22989  
pursuant to division (D)(2) of this section; 22990

(5) Establish standards to be used by the adult parole 22991  
authority or parole board in imposing further sanctions under 22992  
division (F) of this section on releasees who violate post-release 22993  
control sanctions, including standards that do the following: 22994

(a) Classify violations according to the degree of 22995

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| seriousness;   | 22996  |
| (b) Define the circumstances under which formal action by the parole board is warranted;   | 22997<br>22998   |
| (c) Govern the use of evidence at violation hearings;  | 22999  |
| (d) Ensure procedural due process to an alleged violator;  | 23000  |
| (e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;  | 23001<br>23002   |
| (f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.  | 23003<br>23004   |
| (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. | 23005<br>23006<br>23007<br>23008<br>23009<br>23010<br>23011<br>23012<br>23013<br>23014<br>23015<br>23016<br>23017<br>23018<br>23019<br>23020<br>23021<br>23022 |
| (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   | 23023<br>23024<br>23025<br>23026   |

2967.131 of the Revised Code imposed upon the releasee and that a 23027  
more restrictive sanction is appropriate, the authority or court 23028  
may impose a more restrictive sanction upon the releasee, in 23029  
accordance with the standards established under division (E) of 23030  
this section or in accordance with the agreement made under 23031  
section 2967.29 of the Revised Code, or may report the violation 23032  
to the parole board for a hearing pursuant to division (F)(3) of 23033  
this section. The authority or court may not, pursuant to this 23034  
division, increase the duration of the releasee's post-release 23035  
control or impose as a post-release control sanction a residential 23036  
sanction that includes a prison term, but the authority or court 23037  
may impose on the releasee any other residential sanction, 23038  
nonresidential sanction, or financial sanction that the sentencing 23039  
court was authorized to impose pursuant to sections 2929.16, 23040  
2929.17, and 2929.18 of the Revised Code. 23041

(3) The parole board or, pursuant to an agreement under 23042  
section 2967.29 of the Revised Code, the court may hold a hearing 23043  
on any alleged violation by a releasee of a post-release control 23044  
sanction or any conditions described in division (A) of section 23045  
2967.131 of the Revised Code that are imposed upon the releasee. 23046  
If after the hearing the board or court finds that the releasee 23047  
violated the sanction or condition, the board or court may 23048  
increase the duration of the releasee's post-release control up to 23049  
the maximum duration authorized by division (B) or (C) of this 23050  
section or impose a more restrictive post-release control 23051  
sanction. When appropriate, the board or court may impose as a 23052  
post-release control sanction a residential sanction that includes 23053  
a prison term. The board or court shall consider a prison term as 23054  
a post-release control sanction imposed for a violation of 23055  
post-release control when the violation involves a deadly weapon 23056  
or dangerous ordnance, physical harm or attempted serious physical 23057  
harm to a person, or sexual misconduct, or when the releasee 23058  
committed repeated violations of post-release control sanctions. 23059

Unless a releasee's stated prison term was reduced pursuant to 23060  
section 5120.032 of the Revised Code, the period of a prison term 23061  
that is imposed as a post-release control sanction under this 23062  
division shall not exceed nine months, and the maximum cumulative 23063  
prison term for all violations under this division shall not 23064  
exceed one-half of the stated prison term originally imposed upon 23065  
the offender as part of this sentence. If a releasee's stated 23066  
prison term was reduced pursuant to section 5120.032 of the 23067  
Revised Code, the period of a prison term that is imposed as a 23068  
post-release control sanction under this division and the maximum 23069  
cumulative prison term for all violations under this division 23070  
shall not exceed the period of time not served in prison under the 23071  
sentence imposed by the court. The period of a prison term that is 23072  
imposed as a post-release control sanction under this division 23073  
shall not count as, or be credited toward, the remaining period of 23074  
post-release control. 23075

If an offender is imprisoned for a felony committed while 23076  
under post-release control supervision and is again released on 23077  
post-release control for a period of time determined by division 23078  
(F)(4)(d) of this section, the maximum cumulative prison term for 23079  
all violations under this division shall not exceed one-half of 23080  
the total stated prison terms of the earlier felony, reduced by 23081  
any prison term administratively imposed by the parole board or 23082  
court, plus one-half of the total stated prison term of the new 23083  
felony. 23084

(4) Any period of post-release control shall commence upon an 23085  
offender's actual release from prison. If an offender is serving 23086  
an indefinite prison term or a life sentence in addition to a 23087  
stated prison term, the offender shall serve the period of 23088  
post-release control in the following manner: 23089

(a) If a period of post-release control is imposed upon the 23090  
offender and if the offender also is subject to a period of parole 23091

under a life sentence or an indefinite sentence, and if the period of post-release control ends prior to the period of parole, the offender shall be supervised on parole. The offender shall receive credit for post-release control supervision during the period of parole. The offender is not eligible for final release under section 2967.16 of the Revised Code until the post-release control period otherwise would have ended.

(b) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under an indefinite sentence, and if the period of parole ends prior to the period of post-release control, the offender shall be supervised on post-release control. The requirements of parole supervision shall be satisfied during the post-release control period.

(c) If an offender is subject to more than one period of post-release control, the period of post-release control for all of the sentences shall be the period of post-release control that expires last, as determined by the parole board or court. Periods of post-release control shall be served concurrently and shall not be imposed consecutively to each other.

(d) The period of post-release control for a releasee who commits a felony while under post-release control for an earlier felony shall be the longer of the period of post-release control specified for the new felony under division (B) or (C) of this section or the time remaining under the period of post-release control imposed for the earlier felony as determined by the parole board or court.

**Sec. 2981.11.** (A)(1) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of a law enforcement agency shall be kept safely by the agency,

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| pending the time it no longer is needed as evidence or for another | 23123 |
| lawful purpose, and shall be disposed of pursuant to sections      | 23124 |
| 2981.12 and 2981.13 of the Revised Code.                           | 23125 |
| (2) This chapter does not apply to the custody and disposal        | 23126 |
| of any of the following:   | 23127 |
| (a) Vehicles subject to forfeiture under Title XLV of the          | 23128 |
| Revised Code, except as provided in division (A)(6) of section     | 23129 |
| 2981.12 of the Revised Code;                                       | 23130 |
| (b) Abandoned junk motor vehicles or other property of             | 23131 |
| negligible value;  | 23132 |
| (c) Property held by a department of rehabilitation and            | 23133 |
| correction institution that is unclaimed, that does not have an    | 23134 |
| identified owner, that the owner agrees to dispose of, or that is  | 23135 |
| identified by the department as having little value;               | 23136 |
| (d) Animals taken, and devices used in unlawfully taking           | 23137 |
| animals, under section 1531.20 of the Revised Code;                | 23138 |
| (e) Controlled substances sold by a peace officer in the           | 23139 |
| performance of the officer's official duties under section         | 23140 |
| 3719.141 of the Revised Code;                                      | 23141 |
| (f) Property recovered by a township law enforcement agency        | 23142 |
| under sections 505.105 to 505.109 of the Revised Code;             | 23143 |
| (g) Property held and disposed of under an ordinance of the        | 23144 |
| municipal corporation or under sections 737.29 to 737.33 of the    | 23145 |
| Revised Code, except that a municipal corporation that has         | 23146 |
| received notice of a citizens' reward program as provided in       | 23147 |
| division (F) of section 2981.12 of the Revised Code and disposes   | 23148 |
| of property under an ordinance shall pay twenty-five per cent of   | 23149 |
| any moneys acquired from any sale or auction to the citizens'      | 23150 |
| reward program.  | 23151 |
| (B)(1) Each law enforcement agency that has custody of any         | 23152 |

property that is subject to this section shall adopt and comply 23153  
with a written internal control policy that does all of the 23154  
following: 23155

(a) Provides for keeping detailed records as to the amount of 23156  
property acquired by the agency and the date property was 23157  
acquired; 23158

(b) Provides for keeping detailed records of the disposition 23159  
of the property, which shall include, but not be limited to, both 23160  
of the following: 23161

(i) The manner in which it was disposed, the date of 23162  
disposition, detailed financial records concerning any property 23163  
sold, and the name of any person who received the property. The 23164  
record shall not identify or enable identification of the 23165  
individual officer who seized any item of property. 23166

(ii) The general types of expenditures made with amounts that 23167  
are gained from the sale of the property and that are retained by 23168  
the agency, including the specific amount expended on each general 23169  
type of expenditure, except that the policy shall not provide for 23170  
or permit the identification of any specific expenditure that is 23171  
made in an ongoing investigation. 23172

(c) Complies with section 2981.13 of the Revised Code if the 23173  
agency has a law enforcement trust fund or similar fund created 23174  
under that section. 23175

~~(2) Each law enforcement agency that during any calendar year 23176  
has any seized or forfeited property covered by this section in 23177  
its custody, including amounts distributed under section 2981.13 23178  
of the Revised Code to its law enforcement trust fund or a similar 23179  
fund created for the state highway patrol, department of public 23180  
safety, department of taxation, or state board of pharmacy, shall 23181  
prepare a report covering the calendar year that cumulates all of 23182  
the information contained in all of the public records kept by the 23183~~

~~agency pursuant to this section for that calendar year. The agency 23184  
shall send a copy of the cumulative report to the attorney general 23185  
not later than the first day of March in the calendar year 23186  
following the calendar year covered by the report. 23187~~

~~(3) The records kept under the internal control policy shall 23188  
be open to public inspection during the agency's regular business 23189  
hours. The policy adopted under this section and each report 23190  
received by the attorney general is a public record open for 23191  
inspection under section 149.43 of the Revised Code. 23192~~

~~(4) Not later than the fifteenth day of April in each 23193  
calendar year in which reports are sent to the attorney general 23194  
under division (B)(2) of this section, the attorney general shall 23195  
send to the president of the senate and the speaker of the house 23196  
of representatives a written notice that indicates that the 23197  
attorney general received reports that cover the previous calendar 23198  
year, that the reports are open for inspection under section 23199  
149.43 of the Revised Code, and that the attorney general will 23200  
provide a copy of any or all of the reports to the president of 23201  
the senate or the speaker of the house of representatives upon 23202  
request. 23203~~

~~(C) A law enforcement agency with custody of property to be 23204  
disposed of under section 2981.12 or 2981.13 of the Revised Code 23205  
shall make a reasonable effort to locate persons entitled to 23206  
possession of the property, to notify them of when and where it 23207  
may be claimed, and to return the property to them at the earliest 23208  
possible time. In the absence of evidence identifying persons 23209  
entitled to possession, it is sufficient notice to advertise in a 23210  
newspaper of general circulation in the county and to briefly 23211  
describe the nature of the property in custody and inviting 23212  
persons to view and establish their right to it. 23213~~

~~(D) As used in sections 2981.11 to 2981.13 of the Revised 23214  
Code: 23215~~

|  |  |
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| (1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code.  | 23216<br>23217   |
| (2) "Law enforcement agency" includes correctional institutions.   | 23218<br>23219   |
| (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.  | 23220<br>23221<br>23222  |
| <b>Sec. 2981.14.</b> (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.  | 23223<br>23224<br>23225<br>23226<br>23227  |
| (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 <del>contraband, forfeiture, and other fund of the</del> highway patrol <u>treasury contraband fund, the highway patrol justice contraband fund, the investigative unit treasury contraband fund,</u> or the <del>department</del> <u>investigative unit justice contraband fund,</u> whichever is appropriate. | 23228<br>23229<br>23230<br>23231<br>23232<br>23233<br>23234<br>23235<br>23236<br>23237<br>23238<br>23239 |
| (C) <u>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.</u>   | 23240<br>23241<br>23242<br>23243<br>23244<br>23245<br>23246  |

Sec. 3109.14. (A) As used in this section, "birth record" and 23247  
"certification of birth" have the meanings given in section 23248  
3705.01 of the Revised Code. 23249

(B)(1) The director of health, a person authorized by the 23250  
director, a local commissioner of health, or a local registrar of 23251  
vital statistics shall charge and collect a fee for each certified 23252  
copy of a birth record, for each certification of birth, and for 23253  
each copy of a death record. The fee shall be three dollars. The 23254  
fee is in addition to the fee imposed by section 3705.24 or any 23255  
other section of the Revised Code. A local commissioner of health 23256  
or a local registrar of vital statistics may retain an amount of 23257  
each additional fee collected, not to exceed three per cent of the 23258  
amount of the additional fee, to be used for costs directly 23259  
related to the collection of the fee and the forwarding of the fee 23260  
to the ~~treasurer of state~~ department of health. The 23261

The additional fees collected by the director of health or a 23262  
person authorized by the director and the additional fees 23263  
collected, but not retained, under division (B)(1) of this section 23264  
by a local commissioner of health or a local registrar of vital 23265  
statistics shall be forwarded to the ~~treasurer of state~~ department 23266  
of health not later than thirty days following the end of each 23267  
quarter. Not later than two days after the fees are forwarded to 23268  
the department each quarter, the department shall pay the 23269  
collected fees to the treasurer of state in accordance with rules 23270  
adopted by the treasurer of state under section 113.08 of the 23271  
Revised Code. 23272

(2) Upon the filing for a divorce decree under section 23273  
3105.10 or a decree of dissolution under section 3105.65 of the 23274  
Revised Code, a court of common pleas shall charge and collect a 23275  
fee. The fee shall be eleven dollars. The fee is in addition to 23276  
any other court costs or fees. The county clerk of courts may 23277

retain an amount of each additional fee collected, not to exceed 23278  
three per cent of the amount of the additional fee, to be used for 23279  
costs directly related to the collection of the fee and the 23280  
forwarding of the fee to the treasurer of state. The additional 23281  
fees collected, but not retained, under division (B)(2) of this 23282  
section shall be forwarded to the treasurer of state not later 23283  
than twenty days following the end of each month. 23284

(C) The treasurer of state shall deposit the fees paid or 23285  
forwarded under this section in the state treasury to the credit 23286  
of the children's trust fund, which is hereby created. A person or 23287  
government entity that fails to forward the fees in a timely 23288  
manner, as determined by the treasurer of state, shall ~~forward~~ 23289  
send to the treasurer of state, in addition to the fees, a penalty 23290  
equal to ten per cent of the fees. 23291

The treasurer of state shall invest the moneys in the fund, 23292  
and all earnings resulting from investment of the fund shall be 23293  
credited to the fund, except that actual administrative costs 23294  
incurred by the treasurer of state in administering the fund may 23295  
be deducted from the earnings resulting from investments. The 23296  
amount that may be deducted shall not exceed three per cent of the 23297  
total amount of fees credited to the fund in each fiscal year, 23298  
except that the children's trust fund board may approve an amount 23299  
for actual administrative costs exceeding three per cent but not 23300  
exceeding four per cent of such amount. The balance of the 23301  
investment earnings shall be credited to the fund. Moneys credited 23302  
to the fund shall be used only for the purposes described in 23303  
sections 3109.13 to 3109.18 of the Revised Code. 23304

**Sec. 3125.41.** (A) As used in this section: 23305

(1) "Cable television service" has the same meaning as in 23306  
section 2913.01 of the Revised Code. 23307

(2) "Public utility" means a person or entity, including an 23308

entity owned or operated by a municipal corporation or other 23309  
government entity, that is described in ~~division (A)~~ of section 23310  
4905.03 of the Revised Code as a telephone company, electric light 23311  
company, gas company, natural gas company, water-works company, 23312  
heating or cooling company, or sewage disposal system company, or 23313  
that is providing cable television service. 23314

(B) Except as provided in section 3125.43 of the Revised 23315  
Code, the office of child support shall have access to all of the 23316  
following unless release of the information is prohibited by 23317  
federal or state law: 23318

(1) Any information in the possession of any officer or 23319  
entity of the state or any political subdivision of the state that 23320  
would aid the office in locating an absent parent or child 23321  
pursuant to section 3125.06 of the Revised Code; 23322

(2) Any information concerning the employment, compensation, 23323  
and benefits of any obligor or obligee subject to a support order 23324  
in the possession of any person; 23325

(3) The name and address of any obligor or obligee subject to 23326  
a support order and the obligor's or obligee's employer in the 23327  
customer records of a public utility. 23328

**Sec. 3301.55.** (A) A school district, county DD board, or 23329  
eligible nonpublic school operating a preschool program shall 23330  
house the program in buildings that meet the following 23331  
requirements: 23332

(1) The building is operated by the district, county DD 23333  
board, or eligible nonpublic school and has been approved by the 23334  
division of ~~labor~~ industrial compliance in the department of 23335  
commerce or a certified municipal, township, or county building 23336  
department for the purpose of operating a program for preschool 23337  
children. Any such structure shall be constructed, equipped, 23338

repaired, altered, and maintained in accordance with applicable 23339  
provisions of Chapters 3781. and 3791. and with rules adopted by 23340  
the board of building standards under Chapter 3781. of the Revised 23341  
Code for the safety and sanitation of structures erected for this 23342  
purpose. 23343

(2) The building is in compliance with fire and safety laws 23344  
and regulations as evidenced by reports of annual school fire and 23345  
safety inspections as conducted by appropriate local authorities. 23346

(3) The school is in compliance with rules established by the 23347  
state board of education regarding school food services. 23348

(4) The facility includes not less than thirty-five square 23349  
feet of indoor space for each child in the program. Safe play 23350  
space, including both indoor and outdoor play space, totaling not 23351  
less than sixty square feet for each child using the space at any 23352  
one time, shall be regularly available and scheduled for use. 23353

(5) First aid facilities and space for temporary placement or 23354  
isolation of injured or ill children are provided. 23355

(B) Each school district, county DD board, or eligible 23356  
nonpublic school that operates, or proposes to operate, a 23357  
preschool program shall submit a building plan including all 23358  
information specified by the state board of education to the board 23359  
not later than the first day of September of the school year in 23360  
which the program is to be initiated. The board shall determine 23361  
whether the buildings meet the requirements of this section and 23362  
section 3301.53 of the Revised Code, and notify the superintendent 23363  
of its determination. If the board determines, on the basis of the 23364  
building plan or any other information, that the buildings do not 23365  
meet those requirements, it shall cause the buildings to be 23366  
inspected by the department of education. The department shall 23367  
make a report to the superintendent specifying any aspects of the 23368  
building that are not in compliance with the requirements of this 23369

section and section 3301.53 of the Revised Code and the time 23370  
period that will be allowed the district, county DD board, or 23371  
school to meet the requirements. 23372

**Sec. 3304.16.** In carrying out the purposes of sections 23373  
3304.11 to 3304.27 of the Revised Code, the rehabilitation 23374  
services commission: 23375

(A) Shall develop all necessary rules, including rules 23376  
establishing a fee schedule for vocational rehabilitation services 23377  
in accordance with 34 C.F.R. 361.50; 23378

(B) Shall prepare and submit to the governor annual reports 23379  
of activities and expenditures and, prior to each first regular 23380  
session of the general assembly, an estimate of sums required to 23381  
carry out the commission's responsibilities; 23382

(C) Shall certify any disbursement of funds available to the 23383  
commission for vocational rehabilitation activities; 23384

(D) Shall serve as the sole state agency designated to 23385  
administer the plan under the "Rehabilitation Act of 1973," 87 23386  
Stat. 355, 29 U.S.C. 701, as amended; 23387

(E) Shall take appropriate action to guarantee rights of and 23388  
services to handicapped persons; 23389

(F) Shall consult with and advise other state agencies to 23390  
assist them in meeting the needs of handicapped persons more 23391  
effectively and to achieve maximum coordination among programs for 23392  
the handicapped; 23393

(G) Shall establish an administrative division of consumer 23394  
affairs and advocacy within the commission to promote and help 23395  
guarantee the rights of handicapped persons; 23396

(H) Shall maintain an inventory of state services that are 23397  
available to handicapped persons; 23398

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|--|--|
| (I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped;  | 23399<br>23400   |
| (J) May delegate to any officer or employee of the commission any necessary powers and duties;   | 23401<br>23402   |
| (K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations which may include:   | 23403<br>23404<br>23405  |
| (1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned;   | 23406<br>23407<br>23408  |
| (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;   | 23409<br>23410<br>23411<br>23412                                     |
| (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; | 23413<br>23414<br>23415<br>23416<br>23417<br>23418<br>23419<br>23420 |
| (4) Upon the designation of the governor, performing functions and services for the federal government relating to individuals under a physical or mental disability.  | 23421<br>23422<br>23423  |
| (L) <del>Shall comply with</del> <u>May take any requirements appropriate action</u> necessary to obtain federal funds in the maximum amount and most advantageous proportion possible-;   | 23424<br>23425<br>23426  |
| (M) May conduct research and demonstration projects, including inquiries concerning the causes of blindness and its  | 23427<br>23428   |

prevention, provide training and instruction, including the 23429  
establishment and maintenance of research fellowships and 23430  
traineeships along with all necessary stipends and allowances, 23431  
disseminate information, and provide technical assistance relating 23432  
to vocational rehabilitation; 23433

(N) May plan, establish, and operate programs, facilities, 23434  
and services relating to vocational rehabilitation; 23435

(O) May accept and hold, invest, reinvest, or otherwise use 23436  
gifts made for the purpose of furthering vocational 23437  
rehabilitation; 23438

(P) May ameliorate the condition of the aged blind or other 23439  
severely disabled individuals by establishing a program of home 23440  
visitation by commission employees for the purpose of instruction; 23441

(Q) May establish and manage small business enterprises that 23442  
are operated by persons with a substantial handicap to employment, 23443  
including blind persons; 23444

(R) May purchase from insurance companies licensed to do 23445  
business in this state any insurance deemed necessary by the 23446  
commission for the efficient operation of a suitable vending 23447  
facility as defined in division (A) of section 3304.28 of the 23448  
Revised Code; 23449

(S) May accept directly from any state agency, and any state 23450  
agency may transfer directly to the commission, surplus computers 23451  
and computer equipment to be used for any purposes the commission 23452  
considers appropriate, notwithstanding sections 125.12 to 125.14 23453  
of the Revised Code. 23454

**Sec. 3304.181.** If the total of all funds available from 23455  
nonfederal sources to support the activities of the rehabilitation 23456  
services commission does not comply with the expenditure 23457  
requirements of 34 C.F.R. 361.60 and 361.62 for those activities 23458

or would cause the state to lose an allotment or fail to receive a 23459  
reallotment under 34 C.F.R. 361.65, the commission ~~shall~~ may 23460  
solicit additional funds from, and enter into agreements for the 23461  
use of those funds with, private or public entities, including 23462  
local government entities of this state. The commission ~~shall~~ may 23463  
continue to solicit additional funds and enter into agreements 23464  
until the total funding available is sufficient for the commission 23465  
to receive federal funds at the maximum amount and in the most 23466  
advantageous proportion possible. 23467

Any agreement entered into between the commission and a 23468  
private or public entity to provide funds under this section shall 23469  
be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the 23470  
Revised Code. 23471

**Sec. 3304.182.** Any agreement between the rehabilitation 23472  
services commission and a private or public entity providing funds 23473  
under section 3304.181 of the Revised Code may permit the 23474  
commission to receive a specified percentage of the funds, but the 23475  
percentage shall be not more than twenty-five per cent of the 23476  
total funds available under the agreement. ~~The agreement shall not~~ 23477  
~~be for less than six months or be discontinued by the commission~~ 23478  
~~without the commission first providing three months notice of~~ 23479  
~~intent to discontinue the agreement.~~ The commission may terminate 23480  
an agreement only at any time for good just cause. It may 23481  
terminate an agreement for any other reason by giving at least 23482  
thirty days' notice to the public or private entity. 23483

Any services provided under an agreement entered into under 23484  
section 3304.181 of the Revised Code shall be provided by a person 23485  
or government entity that meets the accreditation standards 23486  
established in rules adopted by the commission under section 23487  
3304.16 of the Revised Code. 23488

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| Sec. 3305.01. As used in this chapter:   | 23489   |
| (A) "Public institution of higher education" means a state university as defined in section 3345.011 of the Revised Code, the northeast Ohio medical university, or a university branch,   | 23490<br>23491<br>23492                                     |
| technical college, state community college, community college, or municipal university established or operating under Chapter 3345., 3349., 3354., 3355., 3357., or 3358. of the Revised Code.   | 23493<br>23494<br>23495                                     |
| (B) "State retirement system" means the public employees retirement system created under Chapter 145. of the Revised Code, the state teachers retirement system created under Chapter 3307. of the Revised Code, or the school employees retirement system created under Chapter 3309. of the Revised Code.  | 23496<br>23497<br>23498<br>23499<br>23500                   |
| (C) "Eligible employee" means any person employed as a full-time employee of a public institution of higher education.   | 23501<br>23502  |
| In all cases of doubt, the board of trustees of the public institution of higher education shall determine whether any person is an eligible employee for purposes of this chapter, and the board's decision shall be final.   | 23503<br>23504<br>23505<br>23506                            |
| (D) "Electing employee" means any eligible employee who elects, pursuant to section 3305.05 or 3305.051 of the Revised Code, to participate in an alternative retirement plan provided pursuant to this chapter or an eligible employee who is required to participate in an alternative retirement plan pursuant to division (C) <del>(4)</del> (3) of section 3305.05 or division (F) of section 3305.051 of the Revised Code. | 23507<br>23508<br>23509<br>23510<br>23511<br>23512<br>23513 |
| (E) "Compensation," for purposes of an electing employee, has the same meaning as the applicable one of the following:   | 23514<br>23515  |
| (1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "earnable   | 23516<br>23517<br>23518                                     |

salary" as defined in division (R) of section 145.01 of the Revised Code;

(2) If the electing employee would be subject to Chapter 3307. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "compensation" as defined in division (L) of section 3307.01 of the Revised Code;

(3) If the electing employee would be subject to Chapter 3309. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "compensation" as defined in division (V) of section 3309.01 of the Revised Code.

(F) "~~Provider~~ Vendor" means an entity designated under section 3305.03 of the Revised Code as eligible to be a provider of investment options for an alternative retirement plan.

(G) "Provider" means, with respect to each public institution of higher education, a vendor that has entered into an agreement with that public institution of higher education in accordance with section 3305.04 of the Revised Code.

**Sec. 3305.02.** An alternative retirement program is hereby established in accordance with this chapter for the purpose of providing to eligible employees the opportunity of participating in an alternative retirement plan as an alternative to participating in a state retirement system. The employer is the sponsor of each alternative retirement plan offered under this chapter.

Each alternative retirement plan offered under this program shall be a defined contribution plan qualified under section 401 (a) of the Internal Revenue Code that provides retirement and, to the extent applicable, death benefits through investment options.

The options shall be offered to electing employees pursuant to trust or custodial accounts or pursuant to group or individual annuity contracts, and certificates issued under group contracts, ~~and~~. The options may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment, at the option of each electing employee.

Notwithstanding this chapter, any retirement plan established by a public institution of higher education prior to March 31, 1997, as an alternative to participating in any state retirement system may continue in effect and be modified without regard to this chapter for all employees at the public institution eligible to participate in the plan.

**Sec. 3305.03.** (A) ~~The department of insurance~~ Ohio board of regents shall designate ~~three or more~~ the entities that are eligible to provide investment options under alternative retirement plans ~~established~~ maintained by public institutions of higher education ~~in accordance with this chapter. An entity shall be designated a provider under this section if the entity meets.~~ The board shall accept and review applications from entities seeking designation as a vendor. The board shall not designate an entity as a vendor unless the entity meets the requirements described in division (B) of this section.

(B) To be eligible for designation as a vendor, an entity must meet both of the following requirements:

(1) ~~It is~~ The entity must be authorized to conduct business in this state with regard to the investment options to be offered under an alternative retirement plan ~~maintained by a public institution of higher education.~~

(2) ~~It provides~~ The entity must offer the same or similar investment options ~~to be offered~~ under alternative retirement

~~plans, as group or individual contracts, or a combination thereof,~~ 23580  
~~optional retirement plans, or similar types of plans with respect~~ 23581  
~~to which all of the following apply:~~ 23582

(a) The plans are defined contribution plans that are 23583  
qualified plans under Internal Revenue Code 401(a) or 403(b). 23584

(b) The plans are maintained by institutions of higher 23585  
education in at least ten other states. 23586

~~(c) The plans are established as primary retirement plans~~ 23587  
~~that are alternatives to or a component of the applicable state~~ 23588  
~~retirement system.~~ 23589

(C) In designating a provider under this section determining 23590  
whether to designate an entity as a vendor, the department of 23591  
insurance board of regents shall identify, consider, and evaluate 23592  
all of the following: 23593

(1) The experience of the provider entity in providing in 23594  
other states investment options under alternative retirement 23595  
programs in other states plans, optional retirement plans, or 23596  
similar types of plans that meet the requirements of division 23597  
(B)(2) of this section; 23598

(2) The potential effectiveness of the provider entity in 23599  
recruiting eligible employees to enter into contracts select that 23600  
entity for purposes of participating in an alternative retirement 23601  
plan and in retaining those contracts employees' accounts; 23602

(3) Whether the entity intends to offer a broad range of 23603  
investment options to the electing employees; 23604

(4) The suitability of the investment options to the needs 23605  
and interests of the electing employees and their beneficiaries; 23606

(5) The capability of the entity to offer sufficient 23607  
information to the electing employees and their beneficiaries to 23608  
make informed decisions with regard to investment options offered 23609

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| <u>by the entity;</u>  | 23610 |
| <u>(6) The capability of the entity to perform in a manner that</u>                        | 23611 |
| <u>is in the best interests of the electing employees and their</u>                        | 23612 |
| <u>beneficiaries;</u>  | 23613 |
| <u>(7) The fees and expenses associated with the entity's</u>                              | 23614 |
| <u>investment options and the manner in which the entity intends to</u>                    | 23615 |
| <u>disclose those fees and expenses;</u>   | 23616 |
| <u>(8) The nature and extent of the rights and benefits to be</u>                          | 23617 |
| <u>provided under the investment options;</u>  | 23618 |
| <del>(4) The relationship between the rights and benefits under</del>                      | 23619 |
| <del>the investment options and the amount of the contributions made</del>                 | 23620 |
| <del>under those options;</del>  | 23621 |
| <del>(5) The suitability of the rights and benefits under the</del>                        | 23622 |
| <del>investment options to the needs and interests of eligible</del>                       | 23623 |
| <del>employees;</del>  | 23624 |
| <del>(6)</del> (9) The capability of the <u>provider entity</u> to provide the             | 23625 |
| rights and benefits under the investment options;  | 23626 |
| <del>(7)</del> (10) <u>Comments submitted by a public institution of higher</u>            | 23627 |
| <u>education under section 3305.031 of the Revised Code;</u>                               | 23628 |
| <u>(11) Any other matters <del>it</del> <u>the board of regents</u> considers</u>          | 23629 |
| <u>relevant.</u>   | 23630 |
| <del>(C)</del> (D) The <del>department of insurance</del> <u>board of regents</u> shall    | 23631 |
| <u>periodically review</u> <del>conduct periodic reviews of</del> each <del>provider</del> | 23632 |
| <u>entity</u> designated <del>under division (A) of this section</del> <u>as a vendor</u>  | 23633 |
| and the investment options being offered to ensure that the                                | 23634 |
| requirements and purposes of this chapter are being met. <del>If the</del>                 | 23635 |
| <del>department</del> <u>The reviews of a vendor shall occur not less frequently</u>       | 23636 |
| <u>than once every three years.</u>  | 23637 |
| <u>If it</u> finds that the <del>provider</del> <u>vendor</u> is not in compliance         | 23638 |
| with <del>any requirement</del> <u>the requirements</u> of this chapter or the             | 23639 |

~~provider~~ vendor is not satisfactorily meeting the purposes of this 23640  
chapter, the ~~department may~~ board shall rescind the ~~provider's~~ 23641  
vendor's designation. 23642

~~(D)~~(E) Notwithstanding sections 125.01 to 125.11 of the 23643  
Revised Code, designation of a ~~provider~~ vendor or the execution of 23644  
any ~~contract~~ agreement under this chapter is not subject to 23645  
competitive bidding under those sections. 23646

**Sec. 3305.031.** (A) As part of the process established under 23647  
section 3305.03 of the Revised Code for designating an entity as a 23648  
vendor and conducting periodic reviews of a vendor, the Ohio board 23649  
of regents shall do all of the following: 23650

(1) Provide written notice to each public institution of 23651  
higher education that an entity has applied to be designated as a 23652  
vendor under section 3305.03 of the Revised Code; 23653

(2) Provide written notice to each public institution of 23654  
higher education that a vendor is scheduled for a review; 23655

(3) Establish a comment period of not less than thirty days 23656  
during which a public institution of higher education is 23657  
authorized to comment about an entity's application for 23658  
designation or a vendor's review and to request a meeting with the 23659  
board of regents concerning the application or review; 23660

(4) Not later than fourteen days after the board makes a 23661  
decision with respect to an application or review, including any 23662  
rescission of a vendor's designation, provide written notice to 23663  
each public institution of higher education of the board's 23664  
decision. 23665

(B) If a meeting is requested by a public institution of 23666  
higher education under division (A)(3) of this section, the board 23667  
of regents shall do all of the following: 23668

(1) Notify each public institution of higher education of the 23669

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|---|-------|
| <u>meeting and its time and place;</u>                                    | 23670 |
| <u>(2) Hold the meeting not less than ten but not more than</u>           | 23671 |
| <u>thirty days after the end of the comment period;</u>                   | 23672 |
| <u>(3) Continue to accept comments concerning the application or</u>      | 23673 |
| <u>review, as applicable, until five business days after the meeting</u>  | 23674 |
| <u>is held.</u>   | 23675 |
| <u>(C) The board of regents shall adopt rules under section</u>           | 23676 |
| <u>3305.032 of the Revised Code specifying the method to be used by</u>   | 23677 |
| <u>public institutions of higher education in submitting comments to</u>  | 23678 |
| <u>the board concerning an application or review.</u>                     | 23679 |
| <u>Sec. 3305.032. The Ohio board of regents shall adopt rules as</u>      | 23680 |
| <u>the board considers necessary to carry out its duties and</u>          | 23681 |
| <u>responsibilities under this chapter. The rules shall be adopted in</u> | 23682 |
| <u>accordance with Chapter 119. of the Revised Code. The rules may</u>    | 23683 |
| <u>provide for fees to be charged providers by the board to cover</u>     | 23684 |
| <u>administrative and marketing expenses of the board.</u>                | 23685 |
| <u>Sec. 3305.04. (A) The board of trustees of each public</u>             | 23686 |
| <u>institution of higher education shall adopt an alternative</u>         | 23687 |
| <u>retirement plan in accordance with this chapter. Each public</u>       | 23688 |
| <u>institution of higher education shall enter into a contract with</u>   | 23689 |
| <u>each provider designated pursuant to section 3305.03 of the</u>        | 23690 |
| <u>Revised Code that is willing to provide investment options under</u>   | 23691 |
| <u>an alternative retirement plan at that public institution. Each</u>    | 23692 |
| <u>contract shall provide for termination of the contract if the</u>      | 23693 |
| <u>provider ceases to be a designated provider. In</u>                    | 23694 |
| <u>In accordance with this chapter, each board may perform such</u>       | 23695 |
| <u>functions and provide as necessary for the administration of its</u>   | 23696 |
| <u>alternative retirement plan.</u>                                       | 23697 |
| <u>(B)(1) In implementing the alternative retirement plan</u>             | 23698 |
| <u>established by the board, the public institution of higher</u>         | 23699 |

education shall develop agreements to be entered into with 23700  
entities designated under section 3305.03 of the Revised Code as 23701  
vendors. Each agreement shall include such terms and conditions as 23702  
are determined by the public institution of higher education in 23703  
its sole discretion. 23704

(2) Except as provided in division (B)(3) of this section, 23705  
the public institution of higher education shall enter into 23706  
agreements with a minimum of four vendors or, if fewer than four 23707  
vendors are available, with the number of vendors available. 23708

(3) Division (B)(2) of this section does not require a public 23709  
institution of higher education to enter into an agreement with a 23710  
vendor if either of the following is the case: 23711

(a) The vendor is not willing to provide investment options 23712  
under the alternative retirement plan at that public institution. 23713

(b) The vendor is not willing to agree to the terms and 23714  
conditions of the agreement. 23715

(4) After an agreement has been entered into, both of the 23716  
following apply with respect to termination of the agreement with 23717  
the provider: 23718

(a) The agreement shall be terminated if the provider ceases 23719  
to be an entity designated as a vendor. 23720

(b) The agreement may be terminated if the provider fails to 23721  
comply with the terms and conditions of such agreement. 23722

**Sec. 3305.05.** (A) As used in this section and section 23723  
3305.051 of the Revised Code, "academic or administrative 23724  
employee" means any full-time employee not receiving any benefit, 23725  
allowance, or other payment granted on the employee's account from 23726  
a state retirement system who, before ~~the effective date of this~~ 23727  
~~section~~ August 1, 2005, met one of the following requirements: 23728

(1) The employee was a member of the faculty of a public 23729

institution of higher education. 23730

(2) The employee was a member of the administrative staff of 23731  
a public institution of higher education serving in a position in 23732  
the unclassified civil service pursuant to section 124.11 of the 23733  
Revised Code. 23734

(3) If section 124.11 of the Revised Code did not apply to 23735  
the public institution of higher education, the employee was a 23736  
member of the administrative staff of a public institution of 23737  
higher education serving in a position comparable to a position in 23738  
the unclassified civil service. 23739

In all cases of doubt, the board of trustees of the public 23740  
institution of higher education shall determine whether any person 23741  
is an academic or administrative employee for purposes of this 23742  
chapter, and the board's decision shall be final. 23743

(B)(1) Each person who, on ~~the effective date of this section~~ 23744  
August 1, 2005, is an eligible employee of a public institution of 23745  
higher education and has accrued less than five years of service 23746  
credit in a state retirement system may, not later than one 23747  
hundred twenty days after ~~the effective date of this section~~ 23748  
August 1, 2005, make an election to participate in an alternative 23749  
retirement plan available at the employing public institution, 23750  
unless, prior to ~~the effective date of this section~~ August 1, 23751  
2005, the person had an opportunity pursuant to former section 23752  
3305.05 of the Revised Code to make such an election as an 23753  
academic or administrative employee of that public institution of 23754  
higher education. 23755

(2) An eligible employee whose employment with a public 23756  
institution of higher education commences on or after ~~the~~ 23757  
~~effective date of this section~~ August 1, 2005, may, not later than 23758  
one hundred twenty days after the starting date of the employment, 23759  
make an election to participate in an alternative retirement plan 23760

available at the employing public institution. 23761

(3) An eligible employee who, on or after ~~the effective date~~ 23762  
~~of this section~~ August 1, 2005, terminates employment at one 23763  
public institution of higher education and subsequently is 23764  
employed by another public institution of higher education in a 23765  
position for which an alternative retirement plan is available 23766  
may, not later than one hundred twenty days after the starting 23767  
date of the employment, elect to participate in an alternative 23768  
retirement plan available at that public institution. 23769

(C)(1) An eligible employee who makes an election under 23770  
division (B) of this section shall submit the election in writing 23771  
to the designated officer of the employee's employing public 23772  
institution of higher education. Once submitted, the election is 23773  
irrevocable while the eligible employee continues to be employed 23774  
by the public institution of higher education. Not later than ten 23775  
days after the election becomes irrevocable, the officer shall 23776  
file a certified copy of the election with the state retirement 23777  
system to which, apart from the election, the employee's 23778  
employment would be subject. 23779

Each public institution of higher education that employs a 23780  
person eligible to make an election under division (B) of this 23781  
section shall notify, in writing, ~~within ten days of the person's~~ 23782  
~~employment~~, the state retirement system that applies to that 23783  
employment in the manner specified by that state retirement 23784  
system. The notice shall include the person's name and address. 23785  
The notice shall be given not later than ten days after the first 23786  
date the person is on the institution's payroll. 23787

(2) Elections made under division (B) of this section take 23788  
effect as follows: 23789

(a) An election under division (B)(1) of this section is 23790  
effective as of the date on which the employee's election to 23791

participate in the alternative retirement plan becomes 23792  
irrevocable. 23793

(b) An election under division (B)(2) or (3) of this section 23794  
is effective as of the electing employee's starting date of 23795  
employment. 23796

(3) An eligible employee's election under division (B) of 23797  
this section applies to the employee's employment in all positions 23798  
at that public institution, unless the employee terminates 23799  
employment at the public institution and does not return to 23800  
employment in any position at that public institution ~~prior to one~~ 23801  
~~year~~ for at least three hundred sixty-five days after the date of 23802  
termination. 23803

(4) An eligible employee who makes an election under division 23804  
(B) of this section is forever barred from claiming or purchasing 23805  
service credit under any state retirement system for the period of 23806  
employment while the election is in effect. 23807

(D)(1) An eligible employee who fails to make an election 23808  
under division (B) of this section within the one-hundred-twenty 23809  
day election period shall be deemed to have elected to participate 23810  
in the state retirement system that applies to the employee's 23811  
employment. 23812

(2) An eligible employee who fails to make an election under 23813  
division (B) of this section shall not be permitted to make an 23814  
election for employment in any other position at the public 23815  
institution of higher education while employed at that public 23816  
institution, unless the employee terminates employment at the 23817  
public institution and does not return to employment in any 23818  
position at the public institution ~~prior to one year~~ for at least 23819  
three hundred sixty-five days after the date of termination. 23820

**Sec. 3305.053.** The board of trustees of a public institution 23821

of higher education shall permit an employee who makes an election 23822  
under section 3305.05 or 3305.051 of the Revised Code to do all of 23823  
the following: 23824

(A) Select, from among the providers that have entered into a 23825  
~~contract~~ an agreement with the public institution of higher 23826  
education under section 3305.04 of the Revised Code, the provider 23827  
of an investment option for that employee; 23828

~~(B) Except as permitted under division (C) of this section,~~ 23829  
~~contract with only one provider in any plan year;~~ 23830

~~(C) Change~~ Subject to any terms and conditions established by 23831  
the public institution of higher education, change the provider 23832  
selected under division (A) of this section ~~at the following~~ 23833  
~~times;~~ 23834

~~(1) Once during the first payroll period in any plan year;~~ 23835

~~(2) Any time the provider that the employee selected ceases,~~ 23836  
~~under division (C) of section 3305.03 of the Revised Code, to be~~ 23837  
~~designated~~ any time during the plan year. 23838

~~(D)~~(C) If under division ~~(C)~~(B) of this section an employee 23839  
changes providers, the employee may direct the provider ~~shall to~~ 23840  
transfer to the new provider the employee's account balance either 23841  
in whole or in part, as directed by the employee, except that the 23842  
provider is not required to immediately transfer any part of the 23843  
account invested at the employee's election in a fixed annuity 23844  
account if the contract with the employee under which the 23845  
investment was made permits the provider to make such a transfer 23846  
over a period of time not exceeding ten years and the contract was 23847  
filed with and approved by the department of insurance pursuant to 23848  
section 3911.011 of the Revised Code. 23849

**Sec. 3305.06.** (A) Each electing employee shall contribute an 23850  
amount, which shall be a certain percentage of the employee's 23851

compensation, to the provider of the investment option the 23852  
employee has selected. This percentage shall be the percentage the 23853  
electing employee would have otherwise been required to contribute 23854  
to the state retirement system that applies to the employee's 23855  
position, except that the percentage shall not be less than three 23856  
per cent. Employee contributions under this division may be 23857  
treated as employer contributions in accordance with Internal 23858  
Revenue Code 414(h). 23859

(B) Each public institution of higher education employing an 23860  
electing employee shall contribute a percentage of the employee's 23861  
compensation to the provider of the investment option the employee 23862  
has selected. This percentage shall be equal to the percentage 23863  
that the public institution of higher education would otherwise 23864  
contribute on behalf of that employee to the state retirement 23865  
system that would otherwise cover that employee's position, less 23866  
the percentage contributed by the public institution of higher 23867  
education under division (D) of this section. 23868

(C)(1) In no event shall the amount contributed by the 23869  
electing employee pursuant to division (A) of this section and on 23870  
the electing employee's behalf pursuant to division (B) of this 23871  
section be less than the amount necessary to qualify the plan as a 23872  
state retirement system pursuant to Internal Revenue Code 23873  
3121~~(B)~~(b)(7) and the regulations adopted thereunder. 23874

(2) The full amount of the electing employee's contribution 23875  
under division (A) of this section and the full amount of the 23876  
employer's contribution made on behalf of that employee under 23877  
division (B) of this section shall be paid to the appropriate 23878  
provider for application to the electing employee's investment 23879  
option. 23880

(D) Each public institution of higher education employing an 23881  
electing employee shall contribute on behalf of that employee to 23882

the state retirement system that otherwise applies to the electing 23883  
employee's position a percentage of the electing employee's 23884  
compensation to mitigate any negative financial impact of the 23885  
alternative retirement program on the state retirement system. The 23886  
percentage shall be six per cent, except that the percentage may 23887  
be adjusted by the Ohio retirement study council to reflect the 23888  
determinations made by actuarial studies conducted under section 23889  
171.07 of the Revised Code. Any adjustment shall become effective 23890  
on the first day of the second month following submission of the 23891  
actuarial study to the Ohio board of regents under section 171.07 23892  
of the Revised Code. 23893

Contributions on behalf of an electing employee shall 23894  
continue in accordance with this division until the occurrence of 23895  
the following: 23896

(1) If the electing employee would be subject to Chapter 145. 23897  
of the Revised Code had the employee not made an election pursuant 23898  
to section 3305.05 or 3305.051 of the Revised Code, until the 23899  
unfunded actuarial accrued liability for all benefits, except 23900  
health care benefits provided under section 145.325 or 145.58 of 23901  
the Revised Code and benefit increases provided after March 31, 23902  
1997, is fully amortized, as determined by the annual actuarial 23903  
valuation prepared under section 145.22 of the Revised Code; 23904

(2) If the electing employee would be subject to Chapter 23905  
3307. of the Revised Code had the employee not made an election 23906  
pursuant to section 3305.05 or 3305.051 of the Revised Code, until 23907  
the unfunded actuarial accrued liability for all benefits, except 23908  
health care benefits provided under section 3307.39 or 3307.61 of 23909  
the Revised Code and benefit increases provided after March 31, 23910  
1997, is fully amortized, as determined by the annual actuarial 23911  
valuation prepared under section 3307.51 of the Revised Code; 23912

(3) If the electing employee would be subject to Chapter 23913  
3309. of the Revised Code had the employee not made an election 23914

pursuant to section 3305.05 or 3305.051 of the Revised Code, until 23915  
the unfunded actuarial accrued liability for all benefits, except 23916  
health care benefits provided under section 3309.375 or 3309.69 of 23917  
the Revised Code and benefit increases provided after March 31, 23918  
1997, is fully amortized, as determined by the annual actuarial 23919  
valuation prepared under section 3309.21 of the Revised Code. 23920

**Sec. 3313.65.** (A) As used in this section and section 3313.64 23921  
of the Revised Code: 23922

(1) A person is "in a residential facility" if the person is 23923  
a resident or a resident patient of an institution, home, or other 23924  
residential facility that is: 23925

(a) Licensed as a nursing home, residential care facility, or 23926  
home for the aging by the director of health under section 3721.02 23927  
of the Revised Code; 23928

~~(b) Licensed as an adult care facility by the director of 23929  
mental health under sections 5119.70 to 5119.88 of the Revised 23930  
Code;~~ 23931

~~(e)~~ Maintained as a county home or district home by the board 23932  
of county commissioners or a joint board of county commissioners 23933  
under Chapter 5155. of the Revised Code; 23934

~~(d)~~(c) Operated or administered by a board of alcohol, drug 23935  
addiction, and mental health services under section 340.03 or 23936  
340.06 of the Revised Code, or provides residential care pursuant 23937  
to contracts made under section 340.03 or 340.033 of the Revised 23938  
Code; 23939

~~(e)~~(d) Maintained as a state institution for the mentally ill 23940  
under Chapter 5119. of the Revised Code; 23941

~~(f)~~(e) Licensed by the department of mental health under 23942  
section 5119.20 or 5119.22 of the Revised Code; 23943

~~(g)~~(f) Licensed as a residential facility by the department 23944

of developmental disabilities under section 5123.19 of the Revised Code; 23945  
23946

~~(h)~~(g) Operated by the veteran's administration or another agency of the United States government; 23947  
23948

~~(i)~~(h) Operated by the Ohio veterans' home. 23949

(2) A person is "in a correctional facility" if any of the following apply: 23950  
23951

(a) The person is an Ohio resident and is: 23952

(i) Imprisoned, as defined in section 1.05 of the Revised Code; 23953  
23954

(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility; 23955  
23956

(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. 23957  
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(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned. 23968  
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(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the 23972  
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place the person resided at the time the person became subject to 23975  
the court's jurisdiction in the matter that resulted in the 23976  
person's removal. 23977

(4) "Community control sanction" has the same meaning as in 23978  
section 2929.01 of the Revised Code. 23979

(5) "Post-release control sanction" has the same meaning as 23980  
in section 2967.01 of the Revised Code. 23981

(B) If the circumstances described in division (C) of this 23982  
section apply, the determination of what school district must 23983  
admit a child to its schools and what district, if any, is liable 23984  
for tuition shall be made in accordance with this section, rather 23985  
than section 3313.64 of the Revised Code. 23986

(C) A child who does not reside in the school district in 23987  
which the child's parent resides and for whom a tuition obligation 23988  
previously has not been established under division (C)(2) of 23989  
section 3313.64 of the Revised Code shall be admitted to the 23990  
schools of the district in which the child resides if at least one 23991  
of the child's parents is in a residential or correctional 23992  
facility or a juvenile residential placement and the other parent, 23993  
if living and not in such a facility or placement, is not known to 23994  
reside in this state. 23995

(D) Regardless of who has custody or care of the child, 23996  
whether the child resides in a home, or whether the child receives 23997  
special education, if a district admits a child under division (C) 23998  
of this section, tuition shall be paid to that district as 23999  
follows: 24000

(1) If the child's parent is in a juvenile residential 24001  
placement, by the district in which the child's parent resided at 24002  
the time the parent became subject to the jurisdiction of the 24003  
juvenile court; 24004

(2) If the child's parent is in a correctional facility, by 24005

the district in which the child's parent resided at the time the sentence was imposed;

(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;

(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.

(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.

**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 of the pupils, teachers, and other school employees requires.

Boards of education shall require and provide, in accordance with section 3313.67 of the Revised Code, such tests and examinations for tuberculosis of pupils in selected grades and of school employees as may be required by the ~~Ohio public~~ director of health council.

Boards may require annual tuberculin tests of any grades. All 24036  
pupils with positive reactions to the test shall have chest x-rays 24037  
and all positive reactions and x-ray findings shall be reported 24038  
promptly to the county record bureau of tuberculosis cases 24039  
provided for in section 339.74 of the Revised Code. Boards shall 24040  
waive the required test where a pupil presents a written statement 24041  
from the pupil's family physician certifying that such test has 24042  
been given and that such pupil is free from tuberculosis in a 24043  
communicable stage, or that such test is inadvisable for medical 24044  
reasons, or from the pupil's parent or guardian objecting to such 24045  
test because of religious convictions. 24046

Whenever a pupil, teacher, or other school employee is found 24047  
to be ill or suffering from tuberculosis in a communicable stage 24048  
or other communicable disease, the school physician shall promptly 24049  
send such pupil, teacher, or other school employee home, with a 24050  
statement, in the case of a pupil, to the pupil's parents or 24051  
guardian, briefly setting forth the discovered facts, and advising 24052  
that the family physician be consulted. School physicians shall 24053  
keep accurate card-index records of all examinations, and said 24054  
records, that they may be uniform throughout the state, shall be 24055  
according to the form prescribed by the state board of education, 24056  
and the reports shall be made according to the method of said 24057  
form. If the parent or guardian of any pupil or any teacher or 24058  
other school employee, after notice from the board of education, 24059  
furnishes within two weeks thereafter the written certificate of 24060  
any reputable physician that the pupil, teacher, or other school 24061  
employee has been examined, in such cases the service of the 24062  
school physician shall be dispensed with, and such certificate 24063  
shall be furnished by such parent or guardian, as required by the 24064  
board of education. Such individual records shall not be open to 24065  
the public and shall be solely for the use of the boards of 24066  
education and boards of health officer. If any teacher or other 24067  
school employee is found to have tuberculosis in a communicable 24068

stage or other communicable disease, the teacher's or employee's 24069  
employment shall be discontinued or suspended upon such terms as 24070  
to salary as the board deems just until the school physician has 24071  
certified to a recovery from such disease. The methods of making 24072  
the tuberculin tests and chest x-rays required by this section 24073  
shall be such as are approved by the director of health. 24074

**Sec. 3313.976.** (A) No private school may receive scholarship 24075  
payments from parents pursuant to section 3313.979 of the Revised 24076  
Code until the chief administrator of the private school registers 24077  
the school with the superintendent of public instruction. The 24078  
state superintendent shall register any school that meets the 24079  
following requirements: 24080

(1) The school is located within the boundaries of the pilot 24081  
project school district; 24082

(2) The school indicates in writing its commitment to follow 24083  
all requirements for a state-sponsored scholarship program 24084  
specified under sections 3313.974 to 3313.979 of the Revised Code, 24085  
including, but not limited to, the requirements for admitting 24086  
students pursuant to section 3313.977 of the Revised Code; 24087

(3) The school meets all state minimum standards for 24088  
chartered nonpublic schools in effect on July 1, 1992, except that 24089  
the state superintendent at the superintendent's discretion may 24090  
register nonchartered nonpublic schools meeting the other 24091  
requirements of this division; 24092

(4) The school does not discriminate on the basis of race, 24093  
religion, or ethnic background; 24094

(5) The school enrolls a minimum of ten students per class or 24095  
a sum of at least twenty-five students in all the classes offered; 24096

(6) The school does not advocate or foster unlawful behavior 24097  
or teach hatred of any person or group on the basis of race, 24098

ethnicity, national origin, or religion; 24099

(7) The school does not provide false or misleading 24100  
information about the school to parents, students, or the general 24101  
public; 24102

(8) For students in grades kindergarten through eight with 24103  
family incomes at or below two hundred per cent of the federal 24104  
poverty guidelines, as defined in section 5104.46 of the Revised 24105  
Code, the school agrees not to charge any tuition ~~to low income~~ 24106  
~~families receiving ninety per cent of the scholarship amount~~ 24107  
~~through the scholarship program, pursuant to division (A) of~~ 24108  
~~section 3313.978 of the Revised Code~~, in excess of ~~ten per cent of~~ 24109  
the scholarship amount established pursuant to division (C)(1) of 24110  
section 3313.978 of the Revised Code, excluding any increase 24111  
described in division (C)(2) of that section. ~~The school shall~~ 24112  
~~permit any such tuition, at the discretion of the parent, to be~~ 24113  
~~satisfied by the low income family's provision of in-kind~~ 24114  
~~contributions or services.~~ 24115

(9) For students in grades kindergarten through eight with 24116  
family incomes above two hundred per cent of the federal poverty 24117  
guidelines, whose scholarship amounts are less than the actual 24118  
tuition charge of the school, the school agrees not to charge any 24119  
tuition ~~to low income families receiving a seventy five per cent~~ 24120  
~~scholarship amount through the scholarship program, pursuant to~~ 24121  
~~division (A) of section 3313.978 of the Revised Code~~, in excess of 24122  
the difference between the actual tuition charge of the school and 24123  
~~seventy five per cent of the scholarship amount established~~ 24124  
pursuant to division (C)(1) of section 3313.978 of the Revised 24125  
Code, excluding any increase described in division (C)(2) of that 24126  
section. The school shall permit such tuition, at the discretion 24127  
of the parent, to be satisfied by the ~~low income~~ family's 24128  
provision of in-kind contributions or services. 24129

(10) The school agrees not to charge any tuition to families 24130

of students in grades nine through twelve receiving a scholarship 24131  
in excess of the actual tuition charge of the school less 24132  
~~seventy five or ninety per cent of the scholarship amount~~ 24133  
established pursuant to division (C)(1) of section 3313.978 of the 24134  
Revised Code, ~~as applicable,~~ excluding any increase described in 24135  
division (C)(2) of that section. 24136

(11) Notwithstanding division (K) of section 3301.0711 of the 24137  
Revised Code, the school annually administers the assessments 24138  
prescribed by section 3301.0710 of the Revised Code to each 24139  
scholarship student enrolled in the school in accordance with 24140  
section 3301.0711 of the Revised Code and reports to the 24141  
department of education the results of each such assessment 24142  
administered to each scholarship student. 24143

(B) The state superintendent shall revoke the registration of 24144  
any school if, after a hearing, the superintendent determines that 24145  
the school is in violation of any of the provisions of division 24146  
(A) of this section. 24147

(C) Any public school located in a school district adjacent 24148  
to the pilot project district may receive scholarship payments on 24149  
behalf of parents pursuant to section 3313.979 of the Revised Code 24150  
if the superintendent of the district in which such public school 24151  
is located notifies the state superintendent prior to the first 24152  
day of March that the district intends to admit students from the 24153  
pilot project district for the ensuing school year pursuant to 24154  
section 3327.06 of the Revised Code. 24155

(D) Any parent wishing to purchase tutorial assistance from 24156  
any person or governmental entity pursuant to the pilot project 24157  
program under sections 3313.974 to 3313.979 of the Revised Code 24158  
shall apply to the state superintendent. The state superintendent 24159  
shall approve providers who appear to possess the capability of 24160  
furnishing the instructional services they are offering to 24161  
provide. 24162

Sec. 3313.978. (A) Annually by the first day of November, the 24163  
superintendent of public instruction shall notify the pilot 24164  
project school district of the number of initial scholarships that 24165  
the state superintendent will be awarding in each of grades 24166  
kindergarten through twelve. 24167

The state superintendent shall provide information about the 24168  
scholarship program to all students residing in the district, 24169  
shall accept applications from any such students until such date 24170  
as shall be established by the state superintendent as a deadline 24171  
for applications, and shall establish criteria for the selection 24172  
of students to receive scholarships from among all those applying 24173  
prior to the deadline, which criteria shall give preference to 24174  
students from low-income families. ~~For each student selected, the~~ 24175  
~~state superintendent shall also determine whether the student~~ 24176  
~~qualifies for seventy five or ninety per cent of the scholarship~~ 24177  
~~amount. Students whose family income is at or above two hundred~~ 24178  
~~per cent of the maximum income level established by the state~~ 24179  
~~superintendent for low income families shall qualify for~~ 24180  
~~seventy five per cent of the scholarship amount and students whose~~ 24181  
~~family income is below two hundred per cent of that maximum income~~ 24182  
~~level shall qualify for ninety per cent of the scholarship amount.~~ 24183  
The state superintendent shall notify students of their selection 24184  
prior to the fifteenth day of January ~~and whether they qualify for~~ 24185  
~~seventy five or ninety per cent of the scholarship amount.~~ 24186

(1) A student receiving a pilot project scholarship may 24187  
utilize it at an alternative public school by notifying the 24188  
district superintendent, at any time before the beginning of the 24189  
school year, of the name of the public school in an adjacent 24190  
school district to which the student has been accepted pursuant to 24191  
section 3327.06 of the Revised Code. 24192

(2) A student may decide to utilize a pilot project 24193

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| scholarship at a registered private school in the district if all  | 24194 |
| of the following conditions are met:                               | 24195 |
| (a) By the fifteenth day of February of the preceding school       | 24196 |
| year, or at any time prior to the start of the school year, the    | 24197 |
| parent makes an application on behalf of the student to a          | 24198 |
| registered private school.   | 24199 |
| (b) The registered private school notifies the parent and the      | 24200 |
| state superintendent as follows that the student has been          | 24201 |
| admitted:  | 24202 |
| (i) By the fifteenth day of March of the preceding school          | 24203 |
| year if the student filed an application by the fifteenth day of   | 24204 |
| February and was admitted by the school pursuant to division (A)   | 24205 |
| of section 3313.977 of the Revised Code;                           | 24206 |
| (ii) Within one week of the decision to admit the student if       | 24207 |
| the student is admitted pursuant to division (C) of section        | 24208 |
| 3313.977 of the Revised Code.                                      | 24209 |
| (c) The student actually enrolls in the registered private         | 24210 |
| school to which the student was first admitted or in another       | 24211 |
| registered private school in the district or in a public school in | 24212 |
| an adjacent school district.                                       | 24213 |
| (B) The state superintendent shall also award in any school        | 24214 |
| year tutorial assistance grants to a number of students equal to   | 24215 |
| the number of students who receive scholarships under division (A) | 24216 |
| of this section. Tutorial assistance grants shall be awarded       | 24217 |
| solely to students who are enrolled in the public schools of the   | 24218 |
| district in a grade level covered by the pilot project. Tutorial   | 24219 |
| assistance grants may be used solely to obtain tutorial assistance | 24220 |
| from a provider approved pursuant to division (D) of section       | 24221 |
| 3313.976 of the Revised Code.                                      | 24222 |
| All students wishing to obtain tutorial assistance grants          | 24223 |
| shall make application to the state superintendent by the first    | 24224 |

day of the school year in which the assistance will be used. The 24225  
state superintendent shall award assistance grants in accordance 24226  
with criteria the superintendent shall establish. ~~For each student~~ 24227  
~~awarded a grant, the state superintendent shall also determine~~ 24228  
~~whether the student qualifies for seventy five or ninety per cent~~ 24229  
~~of the grant amount and so notify the student. Students whose~~ 24230  
~~family income is at or above two hundred per cent of the maximum~~ 24231  
~~income level established by the state superintendent for~~ 24232  
~~low income families shall qualify for seventy five per cent of the~~ 24233  
~~grant amount and students whose family income is below two hundred~~ 24234  
~~per cent of that maximum income level shall qualify for ninety per~~ 24235  
~~cent of the grant amount.~~ 24236

(C)(1) In the case of basic scholarships for students in 24237  
grades kindergarten through eight, the scholarship amount shall 24238  
not exceed the lesser of the net tuition charges of the 24239  
alternative school the scholarship recipient attends or three 24240  
thousand dollars before fiscal year 2007, three thousand four 24241  
hundred fifty dollars in fiscal year 2007 through fiscal year 24242  
2011, and four thousand two hundred fifty dollars in fiscal year 24243  
2012 and thereafter. 24244

In the case of basic scholarships for students in grades nine 24245  
through twelve, the scholarship amount shall not exceed the lesser 24246  
of the net tuition charges of the alternative school the 24247  
scholarship recipient attends or two thousand seven hundred 24248  
dollars before fiscal year 2007, three thousand four hundred fifty 24249  
dollars in fiscal year 2007 through fiscal year 2011, and five 24250  
thousand dollars in fiscal year 2012 and thereafter. 24251

The net tuition and fees charged to a student shall be the 24252  
tuition amount specified by the alternative school minus all other 24253  
financial aid, discounts, and adjustments received for the 24254  
student. In cases where discounts are offered for multiple 24255  
students from the same family, and not all students in the same 24256

family are scholarship recipients, the net tuition amount 24257  
attributable to the scholarship recipient shall be the lowest net 24258  
tuition to which the family is entitled. 24259

(2) The state superintendent shall provide for an increase in 24260  
the basic scholarship amount in the case of any student who is a 24261  
mainstreamed student with a disability and shall further increase 24262  
such amount in the case of any separately educated student with a 24263  
disability. Such increases shall take into account the 24264  
instruction, related services, and transportation costs of 24265  
educating such students. 24266

(3) In the case of tutorial assistance grants, the grant 24267  
amount shall not exceed the lesser of the provider's actual 24268  
charges for such assistance or: 24269

(a) Before fiscal year 2007, a percentage established by the 24270  
state superintendent, not to exceed twenty per cent, of the amount 24271  
of the pilot project school district's average basic scholarship 24272  
amount; 24273

(b) In fiscal year 2007 and thereafter, four hundred dollars. 24274

~~(4) No scholarship or tutorial assistance grant shall be~~ 24275  
~~awarded unless the state superintendent determines that~~ 24276  
~~twenty five or ten per cent, as applicable, of the amount~~ 24277  
~~specified for such scholarship or grant pursuant to division~~ 24278  
~~(C)(1), (2), or (3) of this section will be furnished by a~~ 24279  
~~political subdivision, a private nonprofit or for profit entity,~~ 24280  
~~or another person. Only seventy five or ninety per cent of such~~ 24281  
~~amounts, as applicable, shall be paid from state funds pursuant to~~ 24282  
~~section 3313.979 of the Revised Code.~~ 24283

(D)(1) Annually by the first day of November, the state 24284  
superintendent shall estimate the maximum per-pupil scholarship 24285  
amounts for the ensuing school year. The state superintendent 24286  
shall make this estimate available to the general public at the 24287

offices of the district board of education together with the forms 24288  
required by division (D)(2) of this section. 24289

(2) Annually by the fifteenth day of January, the chief 24290  
administrator of each registered private school located in the 24291  
pilot project district and the principal of each public school in 24292  
such district shall complete a parental information form and 24293  
forward it to the president of the board of education. The 24294  
parental information form shall be prescribed by the department of 24295  
education and shall provide information about the grade levels 24296  
offered, the numbers of students, tuition amounts, achievement 24297  
test results, and any sectarian or other organizational 24298  
affiliations. 24299

(E)(1) Only for the purpose of administering the pilot 24300  
project scholarship program, the department may request from any 24301  
of the following entities the data verification code assigned 24302  
under division (D)(2) of section 3301.0714 of the Revised Code to 24303  
any student who is seeking a scholarship under the program: 24304

(a) The school district in which the student is entitled to 24305  
attend school under section 3313.64 or 3313.65 of the Revised 24306  
Code; 24307

(b) If applicable, the community school in which the student 24308  
is enrolled; 24309

(c) The independent contractor engaged to create and maintain 24310  
data verification codes. 24311

(2) Upon a request by the department under division (E)(1) of 24312  
this section for the data verification code of a student seeking a 24313  
scholarship or a request by the student's parent for that code, 24314  
the school district or community school shall submit that code to 24315  
the department or parent in the manner specified by the 24316  
department. If the student has not been assigned a code, because 24317  
the student will be entering kindergarten during the school year 24318

for which the scholarship is sought, the district shall assign a 24319  
code to that student and submit the code to the department or 24320  
parent by a date specified by the department. If the district does 24321  
not assign a code to the student by the specified date, the 24322  
department shall assign a code to the student. 24323

The department annually shall submit to each school district 24324  
the name and data verification code of each student residing in 24325  
the district who is entering kindergarten, who has been awarded a 24326  
scholarship under the program, and for whom the department has 24327  
assigned a code under this division. 24328

(3) The department shall not release any data verification 24329  
code that it receives under division (E) of this section to any 24330  
person except as provided by law. 24331

(F) Any document relative to the pilot project scholarship 24332  
program that the department holds in its files that contains both 24333  
a student's name or other personally identifiable information and 24334  
the student's data verification code shall not be a public record 24335  
under section 149.43 of the Revised Code. 24336

(G)(1) The department annually shall compile the scores 24337  
attained by scholarship students enrolled in registered private 24338  
schools on the assessments administered to the students pursuant 24339  
to division (A)(11) of section 3313.976 of the Revised Code. The 24340  
scores shall be aggregated as follows: 24341

(a) By school district, which shall include all scholarship 24342  
students residing in the pilot project school district who are 24343  
enrolled in a registered private school and were required to take 24344  
an assessment pursuant to division (A)(11) of section 3313.976 of 24345  
the Revised Code; 24346

(b) By registered private school, which shall include all 24347  
scholarship students enrolled in that school who were required to 24348  
take an assessment pursuant to division (A)(11) of section 24349

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| 3313.976 of the Revised Code.  | 24350 |
| (2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:   | 24351 |
| (a) Age;   | 24352 |
| (b) Race and ethnicity;  | 24353 |
| (c) Gender;  | 24354 |
| (d) Students who have participated in the scholarship program for three or more years;   | 24355 |
| (e) Students who have participated in the scholarship program for more than one year and less than three years;  | 24356 |
| (f) Students who have participated in the scholarship program for one year or less;  | 24357 |
| (g) Economically disadvantaged students.   | 24358 |
| (3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students. | 24359 |
| (4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school   | 24360 |
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district that the scholarship student would otherwise attend. In 24380  
calculating the performance of similar students, the department 24381  
shall consider age, grade, race and ethnicity, gender, and 24382  
socioeconomic status. 24383

**Sec. 3313.979.** Each scholarship to be used for payments to a 24384  
registered private school is payable to the parents of the student 24385  
entitled to the scholarship. Each scholarship to be used for 24386  
payments to a public school in an adjacent school district is 24387  
payable to the school district of attendance by the superintendent 24388  
of public instruction. Each grant to be used for payments to an 24389  
approved tutorial assistance provider is payable to the approved 24390  
tutorial assistance provider. 24391

(A)(1) By the fifteenth day of each month of the school year 24392  
that any scholarship students are enrolled in a registered private 24393  
school, the chief administrator of that school shall notify the 24394  
state superintendent of: 24395

(a) The number of scholarship students who were reported to 24396  
the school district as having been admitted by that private school 24397  
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 24398  
Code and who were still enrolled in the private school as of the 24399  
first day of such month, ~~and the numbers of such students who~~ 24400  
~~qualify for seventy five and ninety per cent of the scholarship~~ 24401  
~~amount;~~ 24402

(b) The number of scholarship students who were reported to 24403  
the school district as having been admitted by another private 24404  
school pursuant to division (A)(2)(b) of section 3313.978 of the 24405  
Revised Code and since the date of admission have transferred to 24406  
the school providing the notification under division (A)(1) of 24407  
this section, ~~and the numbers of such students who qualify for~~ 24408  
~~seventy five and ninety per cent of the scholarship amount.~~ 24409

(2) From time to time, the state superintendent shall make a 24410

payment to the parent of each student entitled to a scholarship. 24411  
Each payment shall include for each student reported under 24412  
division (A)(1) of this section, a portion of ~~seventy five or~~ 24413  
~~ninety per cent, as applicable,~~ of the scholarship amount 24414  
specified in divisions (C)(1) and (2) of section 3313.978 of the 24415  
Revised Code. This amount shall be proportionately reduced in the 24416  
case of any such student who is not enrolled in a registered 24417  
private school for the entire school year. 24418

(3) The first payment under this division shall be made by 24419  
the last day of November and shall equal one-third of ~~seventy five~~ 24420  
~~or ninety per cent, as applicable,~~ of the estimated total amount 24421  
that will be due to the parent for the school year pursuant to 24422  
division (A)(2) of this section. 24423

(B) The state superintendent, on behalf of the parents of a 24424  
scholarship student enrolled in a public school in an adjacent 24425  
school district pursuant to section 3327.06 of the Revised Code, 24426  
shall make the tuition payments required by that section to the 24427  
school district admitting the student, except that, 24428  
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 24429  
Revised Code, the total payments in any school year shall not 24430  
exceed ~~seventy five or ninety per cent, as applicable,~~ of the 24431  
scholarship amount provided in divisions (C)(1) and (2) of section 24432  
3313.978 of the Revised Code. 24433

(C) Whenever an approved provider provides tutorial 24434  
assistance to a student, the state superintendent shall pay the 24435  
approved provider for such costs upon receipt of a statement 24436  
specifying the services provided and the costs of the services, 24437  
which statement shall be signed by the provider and verified by 24438  
the chief administrator having supervisory control over the 24439  
tutoring site. The total payments to any approved provider under 24440  
this division for all provider services to any individual student 24441  
in any school year shall not exceed ~~seventy five or ninety per~~ 24442

~~ent, as applicable, of the grant amount provided in division~~ 24443  
(C)(3) of section 3313.978 of the Revised Code. 24444

**Sec. 3318.034.** (A) This section applies to both of the 24445  
following: 24446

(1) Any school district that has not executed an agreement 24447  
for a project under sections 3318.01 to 3318.20 of the Revised 24448  
Code prior to June 24, 2008; 24449

(2) Any school district that is eligible for additional 24450  
assistance under sections 3318.01 to 3318.20 of the Revised Code 24451  
pursuant to division (B)(2) of section 3318.04 of the Revised 24452  
Code. 24453

Notwithstanding any provision of this chapter to the 24454  
contrary, with the approval of the Ohio school facilities 24455  
commission, any school district to which this section applies may 24456  
opt to divide the district's entire classroom facilities needs, as 24457  
those needs are jointly determined by the staff of the commission 24458  
and the school district, into discrete segments and shall comply 24459  
with all of the provisions of those sections unless otherwise 24460  
provided in this section. 24461

(B) Except as provided in division (C) of this section, each 24462  
segment shall comply with all of the following: 24463

(1) The segment shall consist of the new construction of one 24464  
or more entire buildings or the complete renovation of one or more 24465  
entire existing buildings, with any necessary additions to that 24466  
building. 24467

(2) The segment shall not include any construction of or 24468  
renovation or repair to any building that does not complete the 24469  
needs of the district with respect to that particular building at 24470  
the time the segment is completed. 24471

(3) The segment shall consist of new construction, 24472

renovations, additions, reconstruction, or repair of classroom 24473  
facilities to the extent that the school district portion, as 24474  
determined under section 3318.032 of the Revised Code, is an 24475  
amount not less than the product of 0.040 times the district's 24476  
valuation at the time the agreement for the segment is executed, 24477  
unless the district previously has undertaken a segment under this 24478  
section and the district's portion of the estimated basic project 24479  
cost of the remainder of its entire classroom facilities needs, as 24480  
determined jointly by the staff of the commission and the 24481  
district, is less than the amount otherwise required by this 24482  
division. 24483

(C) A district described in division (A)(2) of this section 24484  
that has not received the additional assistance authorized under 24485  
division (B)(2) of section 3318.04 of the Revised Code may 24486  
undertake a segment, with commission approval, for the purpose of 24487  
renovating or replacing work performed on a facility under the 24488  
district's prior project. The commission may approve that segment 24489  
if the commission determines that the renovation or replacement is 24490  
necessary to protect the facility. The basic project cost of the 24491  
segment shall be allocated between the state and the district in 24492  
accordance with section 3318.032 of the Revised Code. However, the 24493  
requirements of division (B) of this section shall not apply to a 24494  
segment undertaken under this division. 24495

(D) The commission shall conditionally approve and seek 24496  
controlling board approval in accordance with division (A) of 24497  
section 3318.04 of the Revised Code of each segment. 24498

(E) ~~The school district's maintenance levy requirement, as~~ 24499  
~~defined in section 3318.18 of the Revised Code, (1) When~~ 24500  
undertaking a segment under this section, a school district may 24501  
elect to prorate its full maintenance amount by setting aside for 24502  
maintenance the amount calculated under division (E)(2) of this 24503  
section to maintain the classroom facilities acquired under the 24504

segment, if the district will use one or more of the alternative 24505  
methods authorized in sections 3318.051, 3318.052, and 3318.084 of 24506  
the Revised Code to generate the entire amount calculated under 24507  
that division. If the district so elects, the commission and the 24508  
district shall include in the agreement entered into under section 24509  
3318.08 of the Revised Code a statement specifying that the 24510  
district will use the amount calculated under that division only 24511  
to maintain the classroom facilities acquired under the segment. 24512

(2) The commission shall calculate the amount for a school 24513  
district to maintain the classroom facilities acquired under a 24514  
segment as follows: 24515

The full maintenance amount X (the school district's portion 24516  
of the basic project cost for the segment / the school district's 24517  
portion of the basic project cost for the district's entire 24518  
classroom facilities needs, as determined jointly by the staff of 24519  
the commission and the district) 24520

(3) A school district may elect to prorate its full 24521  
maintenance amount for any number of segments, provided the 24522  
district will use one or more of the alternative methods 24523  
authorized in sections 3318.051, 3318.052, and 3318.084 of the 24524  
Revised Code to generate the entire amount calculated under 24525  
division (E)(2) of this section to maintain the classroom 24526  
facilities acquired under each segment for which it so elects. If 24527  
the district cannot use one or more of those alternative methods 24528  
to generate the entire amount calculated under that division, the 24529  
district shall levy the tax described in division (B) of section 24530  
3318.05 of the Revised Code or an extension of that tax under 24531  
section 3318.061 of the Revised Code in an amount necessary to 24532  
generate the remainder of its full maintenance amount. The 24533  
commission shall calculate the remainder of the district's full 24534  
maintenance amount as follows: 24535

The full maintenance amount - the sum of the amounts 24536

calculated for the district under division (E)(2) of this section 24537  
for each prior segment of the district's project 24538

(4) In no case shall the sum of the amounts calculated for a 24539  
school district's maintenance of classroom facilities under 24540  
divisions (E)(2) and (3) of this section exceed the amount that 24541  
would have been required for maintenance if the district had 24542  
elected to undertake its project in its entirety instead of 24543  
segmenting the project under this section. 24544

(5) If a school district commenced a segment under this 24545  
section prior to the effective date of this amendment but has not 24546  
completed that segment, and has not levied the tax described in 24547  
division (B) of section 3318.05 of the Revised Code or an 24548  
extension of that tax under section 3318.061 of the Revised Code, 24549  
the district may request approval from the commission to prorate 24550  
its full maintenance amount in accordance with divisions (E)(1) to 24551  
(4) of this section. If the commission approves the request, the 24552  
commission and the district shall amend the agreement entered into 24553  
under section 3318.08 of the Revised Code to reflect the change. 24554

(F) If a school district levies the tax described in division 24555  
(B) of section 3318.05 of the Revised Code or an extension of that 24556  
tax under section 3318.061 of the Revised Code, the tax shall run 24557  
for twenty-three years from the date the ~~first~~ segment for which 24558  
the tax is initially levied is undertaken; however, the 24559  
maintenance levy requirement, as defined in section 3318.18 of the 24560  
Revised Code, does not apply to a segment undertaken under 24561  
division (C) of this section. 24562

(G) As used in this section, "full maintenance amount" means 24563  
the amount of total revenue that a school district likely would 24564  
generate by one-half mill of the tax described in division (B) of 24565  
section 3318.05 of the Revised Code over the entire 24566  
twenty-three-year period required under that section, as 24567  
determined by the commission in consultation with the department 24568

of taxation. 24569

**Sec. 3318.08.** Except in the case of a joint vocational school 24570  
district that receives assistance under sections 3318.40 to 24571  
3318.45 of the Revised Code, if the requisite favorable vote on 24572  
the election is obtained, or if the school district board has 24573  
resolved to apply the proceeds of a property tax levy or the 24574  
proceeds of an income tax, or a combination of proceeds from such 24575  
taxes, as authorized in section 3318.052 of the Revised Code, the 24576  
Ohio school facilities commission, upon certification to it of 24577  
either the results of the election or the resolution under section 24578  
3318.052 of the Revised Code, shall enter into a written agreement 24579  
with the school district board for the construction and sale of 24580  
the project. In the case of a joint vocational school district 24581  
that receives assistance under sections 3318.40 to 3318.45 of the 24582  
Revised Code, if the school district board of education and the 24583  
school district electors have satisfied the conditions prescribed 24584  
in division (D)(1) of section 3318.41 of the Revised Code, the 24585  
commission shall enter into an agreement with the school district 24586  
board for the construction and sale of the project. In either 24587  
case, the agreement shall include, but need not be limited to, the 24588  
following provisions: 24589

(A) The sale and issuance of bonds or notes in anticipation 24590  
thereof, as soon as practicable after the execution of the 24591  
agreement, in an amount equal to the school district's portion of 24592  
the basic project cost, including any securities authorized under 24593  
division (J) of section 133.06 of the Revised Code and dedicated 24594  
by the school district board to payment of the district's portion 24595  
of the basic project cost of the project; provided, that if at 24596  
that time the county treasurer of each county in which the school 24597  
district is located has not commenced the collection of taxes on 24598  
the general duplicate of real and public utility property for the 24599  
year in which the controlling board approved the project, the 24600

school district board shall authorize the issuance of a first 24601  
installment of bond anticipation notes in an amount specified by 24602  
the agreement, which amount shall not exceed an amount necessary 24603  
to raise the net bonded indebtedness of the school district as of 24604  
the date of the controlling board's approval to within five 24605  
thousand dollars of the required level of indebtedness for the 24606  
preceding year. In the event that a first installment of bond 24607  
anticipation notes is issued, the school district board shall, as 24608  
soon as practicable after the county treasurer of each county in 24609  
which the school district is located has commenced the collection 24610  
of taxes on the general duplicate of real and public utility 24611  
property for the year in which the controlling board approved the 24612  
project, authorize the issuance of a second and final installment 24613  
of bond anticipation notes or a first and final issue of bonds. 24614

The combined value of the first and second installment of 24615  
bond anticipation notes or the value of the first and final issue 24616  
of bonds shall be equal to the school district's portion of the 24617  
basic project cost. The proceeds of any such bonds shall be used 24618  
first to retire any bond anticipation notes. Otherwise, the 24619  
proceeds of such bonds and of any bond anticipation notes, except 24620  
the premium and accrued interest thereon, shall be deposited in 24621  
the school district's project construction fund. In determining 24622  
the amount of net bonded indebtedness for the purpose of fixing 24623  
the amount of an issue of either bonds or bond anticipation notes, 24624  
gross indebtedness shall be reduced by moneys in the bond 24625  
retirement fund only to the extent of the moneys therein on the 24626  
first day of the year preceding the year in which the controlling 24627  
board approved the project. Should there be a decrease in the tax 24628  
valuation of the school district so that the amount of 24629  
indebtedness that can be incurred on the tax duplicates for the 24630  
year in which the controlling board approved the project is less 24631  
than the amount of the first installment of bond anticipation 24632  
notes, there shall be paid from the school district's project 24633

construction fund to the school district's bond retirement fund to 24634  
be applied against such notes an amount sufficient to cause the 24635  
net bonded indebtedness of the school district, as of the first 24636  
day of the year following the year in which the controlling board 24637  
approved the project, to be within five thousand dollars of the 24638  
required level of indebtedness for the year in which the 24639  
controlling board approved the project. The maximum amount of 24640  
indebtedness to be incurred by any school district board as its 24641  
share of the cost of the project is either an amount that will 24642  
cause its net bonded indebtedness, as of the first day of the year 24643  
following the year in which the controlling board approved the 24644  
project, to be within five thousand dollars of the required level 24645  
of indebtedness, or an amount equal to the required percentage of 24646  
the basic project costs, whichever is greater. All bonds and bond 24647  
anticipation notes shall be issued in accordance with Chapter 133. 24648  
of the Revised Code, and notes may be renewed as provided in 24649  
section 133.22 of the Revised Code. 24650

(B) The transfer of such funds of the school district board 24651  
available for the project, together with the proceeds of the sale 24652  
of the bonds or notes, except premium, accrued interest, and 24653  
interest included in the amount of the issue, to the school 24654  
district's project construction fund; 24655

(C) For all school districts except joint vocational school 24656  
districts that receive assistance under sections 3318.40 to 24657  
3318.45 of the Revised Code, the following provisions as 24658  
applicable: 24659

(1) If section 3318.052 of the Revised Code applies, the 24660  
earmarking of the proceeds of a tax levied under section 5705.21 24661  
of the Revised Code for general permanent improvements or under 24662  
section 5705.218 of the Revised Code for the purpose of permanent 24663  
improvements, or the proceeds of a school district income tax 24664  
levied under Chapter 5748. of the Revised Code, or the proceeds 24665

from a combination of those two taxes, in an amount to pay all or 24666  
part of the service charges on bonds issued to pay the school 24667  
district portion of the project and an amount equivalent to all or 24668  
part of the tax required under division (B) of section 3318.05 of 24669  
the Revised Code; 24670

(2) If section 3318.052 of the Revised Code does not apply, 24671  
one of the following: 24672

(a) The levy of the tax authorized at the election for the 24673  
payment of maintenance costs, as specified in division (B) of 24674  
section 3318.05 of the Revised Code; 24675

(b) If the school district electors have approved a 24676  
continuing tax for general permanent improvements under section 24677  
5705.21 of the Revised Code and that tax can be used for 24678  
maintenance, the earmarking of an amount of the proceeds from such 24679  
tax for maintenance of classroom facilities as specified in 24680  
division (B) of section 3318.05 of the Revised Code; 24681

(c) If, in lieu of the tax otherwise required under division 24682  
(B) of section 3318.05 of the Revised Code, the commission has 24683  
approved the transfer of money to the maintenance fund in 24684  
accordance with section 3318.051 of the Revised Code, a 24685  
requirement that the district board comply with the provisions 24686  
that section. The district board may rescind the provision 24687  
prescribed under division (C)(2)(c) of this section only so long 24688  
as the electors of the district have approved, in accordance with 24689  
section 3318.063 of the Revised Code, the levy of a tax for the 24690  
maintenance of the classroom facilities acquired under the 24691  
district's project and that levy continues to be collected as 24692  
approved by the electors. 24693

(D) For joint vocational school districts that receive 24694  
assistance under sections 3318.40 to 3318.45 of the Revised Code, 24695  
provision for deposit of school district moneys dedicated to 24696

|  |       |
|--|-------|
| maintenance of the classroom facilities acquired under those       | 24697 |
| sections as prescribed in section 3318.43 of the Revised Code;     | 24698 |
| (E) Dedication of any local donated contribution as provided       | 24699 |
| for under section 3318.084 of the Revised Code, including a        | 24700 |
| schedule for depositing such moneys applied as an offset of the    | 24701 |
| district's obligation to levy the tax described in division (B) of | 24702 |
| section 3318.05 of the Revised Code as required under division     | 24703 |
| (D)(2) of section 3318.084 of the Revised Code;                    | 24704 |
| (F) Ownership of or interest in the project during the period      | 24705 |
| of construction, which shall be divided between the commission and | 24706 |
| the school district board in proportion to their respective        | 24707 |
| contributions to the school district's project construction fund;  | 24708 |
| (G) Maintenance of the state's interest in the project until       | 24709 |
| any obligations issued for the project under section 3318.26 of    | 24710 |
| the Revised Code are no longer outstanding;                        | 24711 |
| (H) The insurance of the project by the school district from       | 24712 |
| the time there is an insurable interest therein and so long as the | 24713 |
| state retains any ownership or interest in the project pursuant to | 24714 |
| division (F) of this section, in such amounts and against such     | 24715 |
| risks as the commission shall require; provided, that the cost of  | 24716 |
| any required insurance until the project is completed shall be a   | 24717 |
| part of the basic project cost;                                    | 24718 |
| (I) The certification by the director of budget and                | 24719 |
| management that funds are available and have been set aside to     | 24720 |
| meet the state's share of the basic project cost as approved by    | 24721 |
| the controlling board pursuant to either section 3318.04 or        | 24722 |
| division (B)(1) of section 3318.41 of the Revised Code;            | 24723 |
| (J) Authorization of the school district board to advertise        | 24724 |
| for and receive construction bids for the project, for and on      | 24725 |
| behalf of the commission, and to award contracts in the name of    | 24726 |
| the state subject to approval by the commission;                   | 24727 |

|   |   |
|---|---|
| (K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;   | 24728<br>24729<br>24730<br>24731<br>24732                   |
| (L) Disposal of any balance left in the school district's project construction fund upon completion of the project;   | 24733<br>24734  |
| (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;   | 24735<br>24736<br>24737                                     |
| (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;  | 24738<br>24739<br>24740<br>24741                            |
| (O) Provision for deposit of an executed copy of the agreement in the office of the commission;   | 24742<br>24743  |
| (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; | 24744<br>24745<br>24746<br>24747<br>24748<br>24749<br>24750 |
| (Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;   | 24751<br>24752  |
| (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   | 24753<br>24754<br>24755<br>24756<br>24757<br>24758          |

simultaneously in proportion to the state's and the school 24759  
district's respective shares of that basic project cost as 24760  
determined under section 3318.032 of the Revised Code or, if the 24761  
district is a joint vocational school district, under section 24762  
3318.42 of the Revised Code. However, if the school district 24763  
certifies to the commission that expenditure by the school 24764  
district is necessary to maintain the federal tax status or 24765  
tax-exempt status of notes or bonds issued by the school district 24766  
to pay for its share of the project cost or to comply with 24767  
applicable temporary investment periods or spending exceptions to 24768  
rebate as provided for under federal law in regard to those notes 24769  
or bonds, the school district may commit to spend, or spend, a 24770  
greater portion of the funds it provides during any specific 24771  
period than would otherwise be required under this division. 24772

(S) A provision stipulating that the commission may prohibit 24773  
the district from proceeding with any project if the commission 24774  
determines that the site is not suitable for construction 24775  
purposes. The commission may perform soil tests in its 24776  
determination of whether a site is appropriate for construction 24777  
purposes. 24778

(T) A provision stipulating that, unless otherwise authorized 24779  
by the commission, any contingency reserve portion of the 24780  
construction budget prescribed by the commission shall be used 24781  
only to pay costs resulting from unforeseen job conditions, to 24782  
comply with rulings regarding building and other codes, to pay 24783  
costs related to design clarifications or corrections to contract 24784  
documents, and to pay the costs of settlements or judgments 24785  
related to the project as provided under section 3318.086 of the 24786  
Revised Code; 24787

(U) Provision stipulating that for continued release of 24788  
project funds the school district board shall comply with section 24789  
3313.41 of the Revised Code throughout the project and shall 24790

notify the department of education and the Ohio community school 24791  
association when the board plans to dispose of facilities by sale 24792  
under that section; 24793

(V) Provision that the commission shall not approve a 24794  
contract for demolition of a facility until the school district 24795  
board has complied with section 3313.41 of the Revised Code 24796  
relative to that facility, unless demolition of that facility is 24797  
to clear a site for construction of a replacement facility 24798  
included in the district's project; 24799

(W) A requirement for the school district to adhere to a 24800  
facilities maintenance plan approved by the commission. 24801

**Sec. 3318.10.** When such working drawings, specifications, and 24802  
estimates of cost have been approved by the school district board 24803  
and the Ohio school facilities commission, the treasurer of the 24804  
school district board shall advertise for construction bids in 24805  
accordance with section 3313.46 of the Revised Code. Such notices 24806  
shall state that plans and specifications for the project are on 24807  
file in the office of the commission and such other place as may 24808  
be designated in such notice, and the time and place when and 24809  
where bids therefor will be received. 24810

The form of proposal to be submitted by bidders shall be 24811  
supplied by the commission. Bidders may be permitted to bid upon 24812  
all the branches of work and materials to be furnished and 24813  
supplied, upon any branch thereof, or upon all or any thereof. 24814

When the construction bids for all branches of work and 24815  
materials have been tabulated, the commission shall cause to be 24816  
prepared a revised estimate of the basic project cost based upon 24817  
the lowest responsible bids received. If such revised estimate 24818  
exceeds the estimated basic project cost as approved by the 24819  
controlling board pursuant to section 3318.04 or division (B)(1) 24820  
of section 3318.41 of the Revised Code, no contracts may be 24821

entered into pursuant to this section unless such revised estimate 24822  
is approved by the commission and by the controlling board. When 24823  
such revised estimate has been prepared, and after such approvals 24824  
are given, if necessary, and if the school district board has 24825  
caused to be transferred to the project construction fund the 24826  
proceeds from the sale of the first or first and final installment 24827  
of its bonds or bond anticipation notes pursuant to the provision 24828  
of the written agreement required by division (B) of section 24829  
3318.08 of the Revised Code, and when the director of budget and 24830  
management has certified that there is a balance in the 24831  
appropriation, not otherwise obligated to pay precedent 24832  
obligations, pursuant to which the state's share of such revised 24833  
estimate is required to be paid, the contract for all branches of 24834  
work and materials to be furnished and supplied, or for any branch 24835  
thereof as determined by the school district board, shall be 24836  
awarded by the school district board to the lowest responsible 24837  
bidder subject to the approval of the commission. Such award shall 24838  
be made within sixty days after the date on which the bids are 24839  
opened, and the successful bidder shall enter into a contract 24840  
within ten days after the successful bidder is notified of the 24841  
award of the contract. 24842

Subject to the approval of the commission, the school 24843  
district board may reject all bids and readvertise. Any contract 24844  
made under this section shall be made in the name of the state and 24845  
executed on its behalf by the president and treasurer of the 24846  
school district board. 24847

The provisions of sections 9.312 and 3313.46 of the Revised 24848  
Code, which are applicable to construction contracts of boards of 24849  
education, shall apply to construction contracts for the project. 24850

The remedies afforded to any subcontractor, materials 24851  
supplier, laborer, mechanic, or persons furnishing material or 24852  
machinery for the project under sections 1311.26 to 1311.32 of the 24853

Revised Code, shall apply to contracts entered into under this 24854  
section and the itemized statement required by section 1311.26 of 24855  
the Revised Code shall be filed with the school district board. 24856

Notwithstanding any other requirement of this section, a 24857  
school district, with the approval of the commission, may utilize 24858  
any otherwise lawful alternative construction delivery method for 24859  
the construction of the project. 24860

**Sec. 3318.30.** (A) There is hereby created the Ohio school 24861  
facilities commission as an independent agency of the state within 24862  
the Ohio facilities construction commission, which is created 24863  
under section 123.20 of the Revised Code. The Ohio school 24864  
facilities commission shall administer the provision of financial 24865  
assistance to school districts for the acquisition or construction 24866  
of classroom facilities in accordance with sections 3318.01 to 24867  
3318.33 of the Revised Code. 24868

The Ohio school facilities commission is a body corporate and 24869  
politic, an agency of state government and an instrumentality of 24870  
the state, performing essential governmental functions of this 24871  
state. The carrying out of the purposes and the exercise by the 24872  
Ohio school facilities commission of its powers conferred by 24873  
sections 3318.01 to 3318.33 of the Revised Code are essential 24874  
public functions and public purposes of the state. The Ohio school 24875  
facilities commission may, in its own name, sue and be sued, enter 24876  
into contracts, and perform all the powers and duties given to it 24877  
by sections 3318.01 to 3318.33 of the Revised Code, but it does 24878  
not have and shall not exercise the power of eminent domain. In 24879  
its discretion and as it determines appropriate, the Ohio school 24880  
facilities commission may delegate to any of its members, 24881  
executive director, or other employees any of the Ohio school 24882  
facilities commission's powers and duties to carry out its 24883  
functions. 24884

(B) The Ohio school facilities commission shall consist of 24885  
seven members, three of whom are voting members. The voting 24886  
members of the Ohio school facilities commission shall be the 24887  
director of the office of budget and management, the director of 24888  
administrative services, and the superintendent of public 24889  
instruction, or their designees. Of the nonvoting members, two 24890  
shall be members of the senate appointed by the president of the 24891  
senate, and two shall be members of the house of representatives 24892  
appointed by the speaker of the house. Each of the appointees of 24893  
the president, and each of the appointees of the speaker, shall be 24894  
members of different political parties. 24895

Nonvoting members shall serve as members of the Ohio school 24896  
facilities commission during the legislative biennium for which 24897  
they are appointed, except that any such member who ceases to be a 24898  
member of the legislative house from which the member was 24899  
appointed shall cease to be a member of the Ohio school facilities 24900  
commission. Each nonvoting member shall be appointed within 24901  
thirty-one days of the end of the term of that member's 24902  
predecessor. Such members may be reappointed. Vacancies of 24903  
nonvoting members shall be filled in the manner provided for 24904  
original appointments. 24905

Members of the Ohio school facilities commission shall serve 24906  
without compensation. 24907

After the initial nonvoting members of the Ohio school 24908  
facilities commission have been appointed, the Ohio school 24909  
facilities commission shall meet and organize by electing voting 24910  
members as the chairperson and vice-chairperson of the Ohio school 24911  
facilities commission, who shall hold their offices until the next 24912  
organizational meeting of the Ohio school facilities commission. 24913  
Organizational meetings of the Ohio school facilities commission 24914  
shall be held at the first meeting of each calendar year. At each 24915  
organizational meeting, the Ohio school facilities commission 24916

shall elect from among its voting members a chairperson and 24917  
vice-chairperson, who shall serve until the next annual 24918  
organizational meeting. The Ohio school facilities commission 24919  
shall adopt rules pursuant to section 111.15 of the Revised Code 24920  
for the conduct of its internal business and shall keep a journal 24921  
of its proceedings. Including the organizational meeting, the Ohio 24922  
school facilities commission shall meet at least once each 24923  
calendar quarter. 24924

Two voting members of the Ohio school facilities commission 24925  
constitute a quorum, and the affirmative vote of two members is 24926  
necessary for approval of any action taken by the Ohio school 24927  
facilities commission. A vacancy in the membership of the Ohio 24928  
school facilities commission does not impair a quorum from 24929  
exercising all the rights and performing all the duties of the 24930  
Ohio school facilities commission. Meetings of the Ohio school 24931  
facilities commission may be held anywhere in the state and shall 24932  
be held in compliance with section 121.22 of the Revised Code. 24933

(C) The Ohio school facilities commission shall file an 24934  
annual report of its activities and finances with the governor, 24935  
speaker of the house of representatives, president of the senate, 24936  
and chairpersons of the house and senate finance committees. 24937

(D) The Ohio school facilities commission shall be exempt 24938  
from the requirements of sections 101.82 to 101.87 of the Revised 24939  
Code. 24940

(E) The Ohio school facilities commission may share employees 24941  
and facilities with the Ohio facilities construction commission. 24942

**Sec. 3318.31.** (A) The Ohio school facilities commission may 24943  
perform any act and ensure the performance of any function 24944  
necessary or appropriate to carry out the purposes of, and 24945  
exercise the powers granted under, Chapter 3318. of the Revised 24946  
Code, including any of the following: 24947

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 24948  
the Revised Code, rules for the administration of programs 24949  
authorized under Chapter 3318. of the Revised Code. 24950

(2) Contract with, retain the services of, or designate, and 24951  
fix the compensation of, such agents, accountants, consultants, 24952  
advisers, and other independent contractors as may be necessary or 24953  
desirable to carry out the programs authorized under Chapter 3318. 24954  
of the Revised Code, or authorize the executive director to 24955  
perform such powers and duties. 24956

(3) Receive and accept any gifts, grants, donations, and 24957  
pledges, and receipts therefrom, to be used for the programs 24958  
authorized under Chapter 3318. of the Revised Code. 24959

(4) Make and enter into all contracts, commitments, and 24960  
agreements, and execute all instruments, necessary or incidental 24961  
to the performance of its duties and the execution of its rights 24962  
and powers under Chapter 3318. of the Revised Code, or authorize 24963  
the executive director to perform such powers and duties. 24964

(5) Request the ~~director of administrative services~~ Ohio 24965  
facilities construction commission to debar a contractor as 24966  
provided in section 153.02 of the Revised Code. 24967

(B) The Ohio school facilities commission shall appoint and 24968  
fix the compensation of an executive director who shall serve at 24969  
the pleasure of the Ohio school facilities commission. The 24970  
executive director shall exercise all powers that the Ohio school 24971  
facilities commission possesses, supervise the operations of the 24972  
Ohio school facilities commission and perform such other duties as 24973  
delegated by the Ohio school facilities commission. The executive 24974  
director also shall employ and fix the compensation of such 24975  
employees as will facilitate the activities and purposes of the 24976  
Ohio school facilities commission, who shall serve at the pleasure 24977  
of the executive director. The employees of the Ohio school 24978

facilities commission shall be exempt from Chapter 4117. of the 24979  
Revised Code and shall not be public employees as defined in 24980  
section 4117.01 of the Revised Code. Any agreement entered into 24981  
prior to July 1, 2012, between the office of collective bargaining 24982  
and the exclusive representative for employees of the commission 24983  
is binding and shall continue to have effect. 24984

(C) The Ohio school facilities commission may adopt, amend, 24985  
and rescind rules pertaining to the administration of the 24986  
construction of school facilities of the state under Chapter 119. 24987  
of the Revised Code. 24988

(D) The attorney general shall serve as the legal 24989  
representative for the Ohio school facilities commission and may 24990  
appoint other counsel as necessary for that purpose in accordance 24991  
with section 109.07 of the Revised Code. 24992

**Sec. 3318.37.** (A)(1) As used in this section: 24993

(a) "Full maintenance amount" has the same meaning as in 24994  
section 3318.034 of the Revised Code. 24995

(b) "Large land area school district" means a school district 24996  
with a territory of greater than three hundred square miles in any 24997  
percentile as determined under section 3318.011 of the Revised 24998  
Code. 24999

~~(b)~~(c) "Low wealth school district" means a school district 25000  
in the first through seventy-fifth percentiles as determined under 25001  
section 3318.011 of the Revised Code. 25002

~~(e)~~(d) A "school district with an exceptional need for 25003  
immediate classroom facilities assistance" means a low wealth or 25004  
large land area school district with an exceptional need for new 25005  
facilities in order to protect the health and safety of all or a 25006  
portion of its students. 25007

(2) No school district that participates in the school 25008

building assistance expedited local partnership program under 25009  
section 3318.36 of the Revised Code shall receive assistance under 25010  
the program established under this section unless the following 25011  
conditions are satisfied: 25012

(a) The district board adopted a resolution certifying its 25013  
intent to participate in the school building assistance expedited 25014  
local partnership program under section 3318.36 of the Revised 25015  
Code prior to September 14, 2000. 25016

(b) The district was selected by the Ohio school facilities 25017  
commission for participation in the school building assistance 25018  
expedited local partnership program under section 3318.36 of the 25019  
Revised Code in the manner prescribed by the commission under that 25020  
section as it existed prior to September 14, 2000. 25021

(B)(1) There is hereby established the exceptional needs 25022  
school facilities assistance program. Under the program, the Ohio 25023  
school facilities commission may set aside from the moneys 25024  
annually appropriated to it for classroom facilities assistance 25025  
projects up to twenty-five per cent for assistance to school 25026  
districts with exceptional needs for immediate classroom 25027  
facilities assistance. 25028

(2)(a) After consulting with education and construction 25029  
experts, the commission shall adopt guidelines for identifying 25030  
school districts with an exceptional need for immediate classroom 25031  
facilities assistance. 25032

(b) The guidelines shall include application forms and 25033  
instructions for school districts to use in applying for 25034  
assistance under this section. 25035

(3) The commission shall evaluate the classroom facilities, 25036  
and the need for replacement classroom facilities from the 25037  
applications received under this section. The commission, 25038  
utilizing the guidelines adopted under division (B)(2)(a) of this 25039

section, shall prioritize the school districts to be assessed. 25040

Notwithstanding section 3318.02 of the Revised Code, the 25041  
commission may conduct on-site evaluation of the school districts 25042  
prioritized under this section and approve and award funds until 25043  
such time as all funds set aside under division (B)(1) of this 25044  
section have been encumbered. However, the commission need not 25045  
conduct the evaluation of facilities if the commission determines 25046  
that a district's assessment conducted under section 3318.36 of 25047  
the Revised Code is sufficient for purposes of this section. 25048

(4) Notwithstanding division (A) of section 3318.05 of the 25049  
Revised Code, the school district's portion of the basic project 25050  
cost under this section shall be the "required percentage of the 25051  
basic project costs," as defined in division (K) of section 25052  
3318.01 of the Revised Code. 25053

(5) Except as otherwise specified in this section, any 25054  
project undertaken with assistance under this section shall comply 25055  
with all provisions of sections 3318.01 to 3318.20 of the Revised 25056  
Code. A school district may receive assistance under sections 25057  
3318.01 to 3318.20 of the Revised Code for the remainder of the 25058  
district's classroom facilities needs as assessed under this 25059  
section when the district is eligible for such assistance pursuant 25060  
to section 3318.02 of the Revised Code, but any classroom facility 25061  
constructed with assistance under this section shall not be 25062  
included in a district's project at that time unless the 25063  
commission determines the district has experienced the increased 25064  
enrollment specified in division (B)(1) of section 3318.04 of the 25065  
Revised Code. 25066

(C) No school district shall receive assistance under this 25067  
section for a classroom facility that has been included in the 25068  
discrete part of the district's classroom facilities needs 25069  
identified and addressed in the district's project pursuant to an 25070  
agreement entered into under section 3318.36 of the Revised Code, 25071

unless the district's entire classroom facilities plan consists of 25072  
only a single building designed to house grades kindergarten 25073  
through twelve. 25074

(D)(1) When undertaking a project under this section, a 25075  
school district may elect to prorate its full maintenance amount 25076  
by setting aside for maintenance the amount calculated under 25077  
division (D)(2) of this section to maintain the classroom 25078  
facilities acquired under the project, if the district will use 25079  
one or more of the alternative methods authorized in sections 25080  
3318.051, 3318.052, and 3318.084 of the Revised Code to generate 25081  
the entire amount calculated under that division. If the district 25082  
so elects, the commission and the district shall include in the 25083  
agreement entered into under section 3318.08 of the Revised Code a 25084  
statement specifying that the district will use the amount 25085  
calculated under that division only to maintain the classroom 25086  
facilities acquired under the project under this section. 25087

(2) The commission shall calculate the amount for a school 25088  
district to maintain the classroom facilities acquired under a 25089  
project under this section as follows: 25090

The full maintenance amount X (the school district's portion 25091  
of the basic project cost under this section / the school 25092  
district's portion of the basic project cost for the district's 25093  
entire classroom facilities needs, as determined jointly by the 25094  
staff of the commission and the district) 25095

(3) A school district may elect to prorate its full 25096  
maintenance amount for any number of projects under this section, 25097  
provided the district will use one or more of the alternative 25098  
methods authorized in sections 3318.051, 3318.052, and 3318.084 of 25099  
the Revised Code to generate the entire amount calculated under 25100  
division (D)(2) of this section to maintain the classroom 25101  
facilities acquired under each project for which it so elects. If 25102  
the district cannot use one or more of those alternative methods 25103

to generate the entire amount calculated under that division, the 25104  
district shall levy the tax described in division (B) of section 25105  
3318.05 of the Revised Code or an extension of that tax under 25106  
section 3318.061 of the Revised Code in an amount necessary to 25107  
generate the remainder of its full maintenance amount. The 25108  
commission shall calculate the remainder of the district's full 25109  
maintenance amount as follows: 25110

The full maintenance amount - the sum of the amounts 25111  
calculated for the district under division (D)(2) of this section 25112  
for each of the district's prior projects under this section 25113

(4) In no case shall the sum of the amounts calculated for a 25114  
school district's maintenance of classroom facilities under 25115  
divisions (D)(2) and (3) of this section exceed the amount that 25116  
would have been required for maintenance if the district had 25117  
elected to meet its entire classroom facilities needs with a 25118  
project under sections 3318.01 to 3318.20 of the Revised Code and 25119  
had not undertaken one or more projects under this section. 25120

(5) If a school district commenced a project under this 25121  
section prior to the effective date of this amendment but has not 25122  
completed that project, and has not levied the tax described in 25123  
division (B) of section 3318.05 of the Revised Code or an 25124  
extension of that tax under section 3318.061 of the Revised Code, 25125  
the district may request approval from the commission to prorate 25126  
its full maintenance amount in accordance with divisions (D)(1) to 25127  
(4) of this section. If the commission approves the request, the 25128  
commission and the district shall amend the agreement entered into 25129  
under section 3318.08 of the Revised Code to reflect the change. 25130

**Sec. 3333.04.** The chancellor of the Ohio board of regents 25131  
shall: 25132

(A) Make studies of state policy in the field of higher 25133  
education and formulate a master plan for higher education for the 25134

state, considering the needs of the people, the needs of the 25135  
state, and the role of individual public and private institutions 25136  
within the state in fulfilling these needs; 25137

(B)(1) Report annually to the governor and the general 25138  
assembly on the findings from the chancellor's studies and the 25139  
master plan for higher education for the state; 25140

(2) Report at least semiannually to the general assembly and 25141  
the governor the enrollment numbers at each state-assisted 25142  
institution of higher education. 25143

(C) Approve or disapprove the establishment of new branches 25144  
or academic centers of state colleges and universities; 25145

(D) Approve or disapprove the establishment of state 25146  
technical colleges or any other state institution of higher 25147  
education; 25148

(E) Recommend the nature of the programs, undergraduate, 25149  
graduate, professional, state-financed research, and public 25150  
services which should be offered by the state colleges, 25151  
universities, and other state-assisted institutions of higher 25152  
education in order to utilize to the best advantage their 25153  
facilities and personnel; 25154

(F) Recommend to the state colleges, universities, and other 25155  
state-assisted institutions of higher education graduate or 25156  
professional programs, including, but not limited to, doctor of 25157  
philosophy, doctor of education, and juris doctor programs, that 25158  
could be eliminated because they constitute unnecessary 25159  
duplication, as shall be determined using the process developed 25160  
pursuant to this division, or for other good and sufficient cause. 25161  
Prior to recommending a program for elimination, the chancellor 25162  
shall request the board of regents to hold at least one public 25163  
hearing on the matter and advise the chancellor on whether the 25164  
program should be recommended for elimination. The board shall 25165

provide notice of each hearing within a reasonable amount of time 25166  
prior to its scheduled date. Following the hearing, the board 25167  
shall issue a recommendation to the chancellor. The chancellor 25168  
shall consider the board's recommendation but shall not be 25169  
required to accept it. 25170

For purposes of determining the amounts of any state 25171  
instructional subsidies paid to state colleges, universities, and 25172  
other state-assisted institutions of higher education, the 25173  
chancellor may exclude students enrolled in any program that the 25174  
chancellor has recommended for elimination pursuant to this 25175  
division except that the chancellor shall not exclude any such 25176  
student who enrolled in the program prior to the date on which the 25177  
chancellor initially commences to exclude students under this 25178  
division. 25179

The chancellor and state colleges, universities, and other 25180  
state-assisted institutions of higher education shall jointly 25181  
develop a process for determining which existing graduate or 25182  
professional programs constitute unnecessary duplication. 25183

(G) Recommend to the state colleges, universities, and other 25184  
state-assisted institutions of higher education programs which 25185  
should be added to their present programs; 25186

(H) Conduct studies for the state colleges, universities, and 25187  
other state-assisted institutions of higher education to assist 25188  
them in making the best and most efficient use of their existing 25189  
facilities and personnel; 25190

(I) Make recommendations to the governor and general assembly 25191  
concerning the development of state-financed capital plans for 25192  
higher education; the establishment of new state colleges, 25193  
universities, and other state-assisted institutions of higher 25194  
education; and the establishment of new programs at the existing 25195  
state colleges, universities, and other institutions of higher 25196

education; 25197

(J) Review the appropriation requests of the public community 25198  
colleges and the state colleges and universities and submit to the 25199  
office of budget and management and to the chairpersons of the 25200  
finance committees of the house of representatives and of the 25201  
senate the chancellor's recommendations in regard to the biennial 25202  
higher education appropriation for the state, including 25203  
appropriations for the individual state colleges and universities 25204  
and public community colleges. For the purpose of determining the 25205  
amounts of instructional subsidies to be paid to state-assisted 25206  
colleges and universities, the chancellor shall define "full-time 25207  
equivalent student" by program per academic year. The definition 25208  
may take into account the establishment of minimum enrollment 25209  
levels in technical education programs below which support 25210  
allowances will not be paid. Except as otherwise provided in this 25211  
section, the chancellor shall make no change in the definition of 25212  
"full-time equivalent student" in effect on November 15, 1981, 25213  
which would increase or decrease the number of subsidy-eligible 25214  
full-time equivalent students, without first submitting a fiscal 25215  
impact statement to the president of the senate, the speaker of 25216  
the house of representatives, the legislative service commission, 25217  
and the director of budget and management. The chancellor shall 25218  
work in close cooperation with the director of budget and 25219  
management in this respect and in all other matters concerning the 25220  
expenditures of appropriated funds by state colleges, 25221  
universities, and other institutions of higher education. 25222

(K) Seek the cooperation and advice of the officers and 25223  
trustees of both public and private colleges, universities, and 25224  
other institutions of higher education in the state in performing 25225  
the chancellor's duties and making the chancellor's plans, 25226  
studies, and recommendations; 25227

(L) Appoint advisory committees consisting of persons 25228

associated with public or private secondary schools, members of 25229  
the state board of education, or personnel of the state department 25230  
of education; 25231

(M) Appoint advisory committees consisting of college and 25232  
university personnel, or other persons knowledgeable in the field 25233  
of higher education, or both, in order to obtain their advice and 25234  
assistance in defining and suggesting solutions for the problems 25235  
and needs of higher education in this state; 25236

(N) Approve or disapprove all new degrees and new degree 25237  
programs at all state colleges, universities, and other 25238  
state-assisted institutions of higher education; 25239

(O) Adopt such rules as are necessary to carry out the 25240  
chancellor's duties and responsibilities. The rules shall 25241  
prescribe procedures for the chancellor to follow when taking 25242  
actions associated with the chancellor's duties and 25243  
responsibilities and shall indicate which types of actions are 25244  
subject to those procedures. The procedures adopted under this 25245  
division shall be in addition to any other procedures prescribed 25246  
by law for such actions. However, if any other provision of the 25247  
Revised Code or rule adopted by the chancellor prescribes 25248  
different procedures for such an action, the procedures adopted 25249  
under this division shall not apply to that action to the extent 25250  
they conflict with the procedures otherwise prescribed by law. The 25251  
procedures adopted under this division shall include at least the 25252  
following: 25253

(1) Provision for public notice of the proposed action; 25254

(2) An opportunity for public comment on the proposed action, 25255  
which may include a public hearing on the action by the board of 25256  
regents; 25257

(3) Methods for parties that may be affected by the proposed 25258  
action to submit comments during the public comment period; 25259

|  |                                  |
|--|----------------------------------|
| (4) Submission of recommendations from the board of regents regarding the proposed action, at the request of the chancellor;   | 25260<br>25261                   |
| (5) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;   | 25262<br>25263                   |
| (6) A timeline for the process described in divisions (0)(1) to (5) of this section.   | 25264<br>25265                   |
| <del>(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:</del> | 25266<br>25267<br>25268<br>25269 |
| <del>(1) Increased access to higher education;</del>   | 25270                            |
| <del>(2) Job training;</del>   | 25271                            |
| <del>(3) Adult literacy;</del>   | 25272                            |
| <del>(4) Research;</del>   | 25273                            |
| <del>(5) Excellence in higher education;</del>   | 25274                            |
| <del>(6) Reduction in the number of graduate programs within the same subject area.</del>  | 25275<br>25276                   |
| <del>In July of each odd numbered year, the chancellor shall submit to the governor and the general assembly a report on progress made toward these goals.</del>   | 25277<br>25278<br>25279          |
| <del>(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.26, and 5910.02 of the Revised Code;</del>              | 25280<br>25281<br>25282<br>25283 |
| <del>(R)(Q) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;</del>                                      | 25284<br>25285<br>25286<br>25287 |
| <del>(S)(R) Adopt rules for student financial aid programs as</del>  | 25288                            |

required by sections 3333.12, 3333.122, 3333.21 to 3333.26, 25289  
3333.28, and 5910.02 of the Revised Code, and perform any other 25290  
administrative functions assigned to the chancellor by those 25291  
sections; 25292

~~(F)~~(S) Conduct enrollment audits of state-supported 25293  
institutions of higher education; 25294

~~(U)~~(T) Appoint consortia of college and university personnel 25295  
to advise or participate in the development and operation of 25296  
statewide collaborative efforts, including the Ohio supercomputer 25297  
center, the Ohio academic resources network, OhioLink, and the 25298  
Ohio learning network. For each consortium, the chancellor shall 25299  
designate a college or university to serve as that consortium's 25300  
fiscal agent, financial officer, and employer. Any funds 25301  
appropriated for the consortia shall be distributed to the fiscal 25302  
agents for the operation of the consortia. A consortium shall 25303  
follow the rules of the college or university that serves as its 25304  
fiscal agent. The chancellor may restructure existing consortia, 25305  
appointed under this division, in accordance with procedures 25306  
adopted under divisions ~~(D)~~(O)(1) to (6) of this section. 25307

~~(V)~~(U) Adopt rules establishing advisory duties and 25308  
responsibilities of the board of regents not otherwise prescribed 25309  
by law; 25310

~~(W)~~(V) Respond to requests for information about higher 25311  
education from members of the general assembly and direct staff to 25312  
conduct research or analysis as needed for this purpose. 25313

**Sec. 3333.041.** (A) On or before the last day of December of 25314  
each year, the chancellor of the Ohio board of regents shall 25315  
submit ~~a report~~ to the governor and, in accordance with section 25316  
101.68 of the Revised Code, the general assembly, the state board 25317  
of education, and the board of education of each city, exempted 25318  
village, and local school district on the a report or reports 25319

concerning all of the following: 25320

(1) The status of graduates of Ohio school districts at 25321  
state-assisted colleges or universities state institutions of 25322  
higher education during the twelve-month period ending on the 25323  
thirtieth day of September of the current calendar year. The 25324  
report shall list, by school district, the number of graduates of 25325  
each school district who attended ~~such a college or university~~ 25326  
state institution of higher education and the percentage of each 25327  
district's graduates enrolled in ~~such a college or university~~ 25328  
state institution of higher education during the reporting period 25329  
who were required during such period by the college or university, 25330  
as a prerequisite to enrolling in those courses generally required 25331  
for first-year students, to enroll in a remedial course in 25332  
English, including composition or reading, mathematics, and any 25333  
other area designated by the ~~board~~ chancellor. The chancellor also 25334  
shall make the information described in division (A)(1) of this 25335  
section available to the board of education of each city, exempted 25336  
village, and local school district. 25337

Each ~~state-assisted college and university~~ state institution 25338  
of higher education shall, by the first day of November of each 25339  
year, submit to the chancellor in the form specified by the 25340  
chancellor the information the chancellor requires to compile the 25341  
report. 25342

(2) Aggregate academic growth data for students assigned to 25343  
graduates of teacher preparation programs approved under section 25344  
3333.048 of the Revised Code who teach English language arts or 25345  
mathematics in any of grades four to eight in a public school in 25346  
Ohio. For this purpose, the chancellor shall use the value-added 25347  
progress dimension prescribed by section 3302.021 of the Revised 25348  
Code. The chancellor shall aggregate the data by graduating class 25349  
for each approved teacher preparation program, except that if a 25350  
particular class has ten or fewer graduates to which this section 25351

applies, the chancellor shall report the data for a group of 25352  
classes over a three-year period. In no case shall the report 25353  
identify any individual graduate. The department of education 25354  
shall share any data necessary for the report with the chancellor. 25355

(3) The following information with respect to the Ohio 25356  
tuition trust authority: 25357

(a) The name of each investment manager that is a minority 25358  
business enterprise or a women's business enterprise with which 25359  
the chancellor contracts; 25360

(b) The amount of assets managed by investment managers that 25361  
are minority business enterprises or women's business enterprises, 25362  
expressed as a percentage of assets managed by investment managers 25363  
with which the chancellor has contracted; 25364

(c) Efforts by the chancellor to increase utilization of 25365  
investment managers that are minority business enterprises or 25366  
women's business enterprises. 25367

(4) The status of implementation of faculty improvement 25368  
programs under section 3345.28 of the Revised Code. The report 25369  
shall include, but need not be limited to, the following: the 25370  
number of professional leave grants made by each institution; the 25371  
purpose of each professional leave; and a statement of the cost to 25372  
the institution of each professional leave, to the extent that the 25373  
cost exceeds the salary of the faculty member on professional 25374  
leave. 25375

(5) The number and types of biobased products purchased under 25376  
section 125.092 of the Revised Code and the amount of money spent 25377  
by state institutions of higher education for those biobased 25378  
products as that information is provided to the chancellor under 25379  
division (A) of section 3345.692 of the Revised Code. 25380

(6) A description of dual enrollment programs, as defined in 25381  
section 3313.6013 of the Revised Code, that are offered by school 25382

districts, community schools established under Chapter 3314. of 25383  
the Revised Code, STEM schools established under Chapter 3326. of 25384  
the Revised Code, college-preparatory boarding schools established 25385  
under Chapter 3328. of the Revised Code, and chartered nonpublic 25386  
high schools. The chancellor also shall post the information on 25387  
the chancellor's web site. 25388

(7) The academic and economic impact of the Ohio innovation 25389  
partnership established under section 3333.61 of the Revised Code. 25390  
At a minimum, the report shall include the following: 25391

(a) Progress and performance metrics for each initiative that 25392  
received an award in the previous fiscal year; 25393

(b) Economic indicators of the impact of each initiative, and 25394  
all initiatives as a whole, on the regional economies and the 25395  
statewide economy; 25396

(c) The chancellor's strategy in assigning choose Ohio first 25397  
scholarships among state universities and colleges and how the 25398  
actual awards fit that strategy. 25399

(8) The academic and economic impact of the Ohio 25400  
co-op/internship program established under section 3333.72 of the 25401  
Revised Code. At a minimum, the report shall include the 25402  
following: 25403

(a) Progress and performance metrics for each initiative that 25404  
received an award in the previous fiscal year; 25405

(b) Economic indicators of the impact of each initiative, and 25406  
all initiatives as a whole, on the regional economies and the 25407  
statewide economy; 25408

(c) The chancellor's strategy in allocating awards among 25409  
state institutions of higher education and how the actual awards 25410  
fit that strategy. 25411

(B) As used in this section, ~~"state-assisted college or~~ 25412

~~university" means a state university or college as defined in 25413  
division (A)(1) of section 3345.12 of the Revised Code, community 25414  
colleges, state community colleges, university branches, and 25415  
technical colleges.:~~ 25416

(1) "Minority business enterprise" has the same meaning as in 25417  
section 122.71 of the Revised Code. 25418

(2) "State institution of higher education" and "state 25419  
university" have the same meanings as in section 3345.011 of the 25420  
Revised Code. 25421

(3) "State university or college" has the same meaning as in 25422  
section 3345.12 of the Revised Code. 25423

(4) "Women's business enterprise" means a business, or a 25424  
partnership, corporation, limited liability company, or joint 25425  
venture of any kind, that is owned and controlled by women who are 25426  
United States citizens and residents of this state. 25427

**Sec. 3333.123.** (A) As used in this section: 25428

(1) "The Ohio college opportunity grant program" means the 25429  
program established under section 3333.122 of the Revised Code. 25430

(2) "Rules for the Ohio college opportunity grant program" 25431  
means the rules authorized in division ~~(S)~~(R) of section 3333.04 25432  
of the Revised Code for the implementation of the program. 25433

(B) In adopting rules for the Ohio college opportunity grant 25434  
program, the chancellor of the Ohio board of regents may include 25435  
provisions that give preferential or priority funding to 25436  
low-income students who in their primary and secondary school work 25437  
participate in or complete rigorous academic coursework, attain 25438  
passing scores on the assessments prescribed in section 3301.0710 25439  
of the Revised Code, or meet other high academic performance 25440  
standards determined by the chancellor to reduce the need for 25441  
remediation and ensure academic success at the postsecondary 25442

education level. Any such rules shall include a specification of 25443  
procedures needed to certify student achievement of primary and 25444  
secondary standards as well as the timeline for implementation of 25445  
the provisions authorized by this section. 25446

**Sec. 3333.21.** As used in sections 3333.21 to 3333.23 of the 25447  
Revised Code, "term" and "academic year" mean "term" and "academic 25448  
year" as defined by the chancellor of the Ohio board of regents. 25449

The chancellor shall establish and administer an academic 25450  
scholarship program. Under the program, a total of one thousand 25451  
new scholarships shall be awarded annually in the amount of not 25452  
less than two thousand dollars per award. At least one such new 25453  
scholarship shall be awarded annually to a student in each public 25454  
high school and joint vocational school and each nonpublic high 25455  
school for which the state board of education prescribes minimum 25456  
standards in accordance with section 3301.07 of the Revised Code. 25457

To be eligible for the award of a scholarship, a student 25458  
shall be a resident of Ohio and shall be enrolled as a full-time 25459  
undergraduate student in an Ohio institution of higher education 25460  
that meets the requirements of Title VI of the "Civil Rights Act 25461  
of 1964" and is state-assisted, is nonprofit and holds a 25462  
certificate of authorization issued under section 1713.02 of the 25463  
Revised Code, is a private institution exempt from regulation 25464  
under Chapter 3332. of the Revised Code as prescribed in section 25465  
3333.046 of the Revised Code, or holds a certificate of 25466  
registration and program authorization issued under section 25467  
3332.05 of the Revised Code and awards an associate or bachelor's 25468  
degree. Students who attend an institution holding a certificate 25469  
of registration shall be enrolled in a program leading to an 25470  
associate or bachelor's degree for which associate or bachelor's 25471  
degree program the institution has program authorization to offer 25472  
the program issued under section 3332.05 of the Revised Code. 25473

"Resident" and "full-time student" shall be defined in rules 25474  
adopted by the chancellor. 25475

The chancellor shall award the scholarships on the basis of a 25476  
formula designed by the chancellor to identify students with the 25477  
highest capability for successful college study. The formula shall 25478  
weigh the factor of achievement, as measured by grade point 25479  
average, and the factor of ability, as measured by performance on 25480  
a competitive examination specified by the chancellor. Students 25481  
receiving scholarships shall be known as "Ohio academic scholars." 25482  
~~Annually, not later than the thirty first day of July, the~~ 25483  
~~chancellor shall report to the governor and the general assembly~~ 25484  
~~on the performance of current Ohio academic scholars and the~~ 25485  
~~effectiveness of the formula.~~ 25486

**Sec. 3333.60.** As used in sections 3333.61 to ~~3333.70~~ 3333.69 25487  
of the Revised Code: 25488

(A) "State university or college" has the same meaning as in 25489  
section 3345.12 of the Revised Code. 25490

(B) "State university" and "state institution of higher 25491  
education" have the same meanings as in section 3345.011 of the 25492  
Revised Code. 25493

**Sec. 3333.61.** The chancellor of the Ohio board of regents 25494  
shall establish and administer the Ohio innovation partnership, 25495  
which shall consist of the choose Ohio first scholarship program 25496  
and the Ohio research scholars program. Under the programs, the 25497  
chancellor, subject to approval by the controlling board, shall 25498  
make awards to state universities or colleges for programs and 25499  
initiatives that recruit students and scientists in the fields of 25500  
science, technology, engineering, mathematics, and medicine to 25501  
state universities or colleges, in order to enhance regional 25502  
educational and economic strengths and meet the needs of the 25503

state's regional economies. Awards may be granted for programs and 25504  
initiatives to be implemented by a state university or college 25505  
alone or in collaboration with other state institutions of higher 25506  
education, nonpublic Ohio universities and colleges, or other 25507  
public or private Ohio entities. If the chancellor makes an award 25508  
to a program or initiative that is intended to be implemented by a 25509  
state university or college in collaboration with other state 25510  
institutions of higher education or nonpublic Ohio universities or 25511  
colleges, the chancellor may provide that some portion of the 25512  
award be received directly by the collaborating universities or 25513  
colleges consistent with all terms of the Ohio innovation 25514  
partnership. 25515

The choose Ohio first scholarship program shall assign a 25516  
number of scholarships to state universities and colleges to 25517  
recruit Ohio residents as undergraduate, or as provided in section 25518  
3333.66 of the Revised Code graduate, students in the fields of 25519  
science, technology, engineering, mathematics, and medicine, or in 25520  
science, technology, engineering, mathematics, or medical 25521  
education. Choose Ohio first scholarships shall be awarded to each 25522  
participating eligible student as a grant to the state university 25523  
or college the student is attending and shall be reflected on the 25524  
student's tuition bill. Choose Ohio first scholarships are 25525  
student-centered grants from the state to students to use to 25526  
attend a university or college and are not grants from the state 25527  
to universities or colleges. 25528

Notwithstanding any other provision of this section or 25529  
sections 3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, a 25530  
nonpublic four-year Ohio institution of higher education may 25531  
submit a proposal for choose Ohio first scholarships or Ohio 25532  
research scholars grants. If the chancellor awards a nonpublic 25533  
institution scholarships or grants, the nonpublic institution 25534  
shall comply with all requirements of this section, sections 25535

3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, and the rules 25536  
adopted under this section that apply to state universities or 25537  
colleges awarded choose Ohio first scholarships or Ohio research 25538  
scholars grants. 25539

The Ohio research scholars program shall award grants to use 25540  
in recruiting scientists to the faculties of state universities or 25541  
colleges. 25542

The chancellor shall adopt rules in accordance with Chapter 25543  
119. of the Revised Code to administer the programs. 25544

**Sec. 3333.71.** As used in sections 3333.71 to ~~3333.80~~ 3333.79 25545  
of the Revised Code: 25546

(A) "Cooperative education program" means a partnership 25547  
between students, institutions of higher education, and employers 25548  
that formally integrates students' academic study with work 25549  
experience in cooperating employer organizations and that meets 25550  
all of the following conditions: 25551

(1) Alternates or combines periods of academic study and work 25552  
experience in appropriate fields as an integral part of student 25553  
education; 25554

(2) Provides students with compensation from the cooperative 25555  
employer in the form of wages or salaries for work performed; 25556

(3) Evaluates each participating student's performance in the 25557  
cooperative position, both from the perspective of the student's 25558  
institution of higher education and the student's cooperative 25559  
employer; 25560

(4) Provides participating students with academic credit from 25561  
the institution of higher education upon successful completion of 25562  
their cooperative education; 25563

(5) Is part of an overall degree or certificate program for 25564  
which a percentage of the total program acceptable to the 25565

chancellor of the Ohio board of regents involves cooperative 25566  
education. 25567

(B) "Internship program" means a partnership between 25568  
students, institutions of higher education, and employers that 25569  
formally integrates students' academic study with work or 25570  
community service experience and that does both of the following: 25571

(1) Offers internships of specified and definite duration; 25572

(2) Evaluates each participating student's performance in the 25573  
internship position, both from the perspective of the student's 25574  
institution of higher education and the student's internship 25575  
employer. 25576

An internship program may provide participating students with 25577  
academic credit upon successful completion of the internship, and 25578  
may provide students with compensation in the form of wages or 25579  
salaries, stipends, or scholarships. 25580

(C) "Nonpublic university or college" means a nonprofit 25581  
institution holding a certificate of authorization issued under 25582  
Chapter 1713. of the Revised Code. 25583

(D) "State institution of higher education" has the same 25584  
meaning as in section 3345.011 of the Revised Code. 25585

**Sec. 3333.72.** The chancellor of the Ohio board of regents 25586  
shall establish and administer the Ohio co-op/internship program 25587  
to promote and encourage cooperative education programs or 25588  
internship programs at Ohio institutions of higher education for 25589  
the purpose of recruiting Ohio students to stay in the state, and 25590  
recruiting Ohio residents who left Ohio to attend out-of-state 25591  
institutions of higher education back to Ohio institutions of 25592  
higher education, to participate in high quality academic programs 25593  
that use cooperative education programs or significant internship 25594  
programs, in order to support the growth of Ohio's businesses by 25595

providing businesses with Ohio's most talented students and 25596  
providing Ohio graduates with job opportunities with Ohio's 25597  
growing companies. 25598

The chancellor, subject to approval by the controlling board, 25599  
shall make awards to state institutions of higher education for 25600  
new or existing programs and initiatives meeting the goals of the 25601  
Ohio co-op/internship program. Awards may be granted for programs 25602  
and initiatives to be implemented by a state institution of higher 25603  
education alone or in collaboration with other state institutions 25604  
of higher education or nonpublic Ohio universities and colleges. 25605  
If the chancellor makes an award to a program or initiative that 25606  
is intended to be implemented by a state institution of higher 25607  
education in collaboration with other state institutions of higher 25608  
education or nonpublic Ohio universities or colleges, the 25609  
chancellor may provide that some portion of the award be received 25610  
directly by the collaborating universities or colleges consistent 25611  
with all terms of the Ohio co-op/internship program. 25612

The Ohio co-op/internship program shall support the creation 25613  
and maintenance of high quality academic programs that utilize an 25614  
intensive cooperative education or internship program for students 25615  
at state institutions of higher education, or assign a number of 25616  
scholarships to institutions to recruit Ohio residents as students 25617  
in a high quality academic program, or both. If scholarships are 25618  
included in an award to an institution of higher education, the 25619  
scholarships shall be awarded to each participating eligible 25620  
student as a grant to the state institution of higher education 25621  
the student is attending and shall be reflected on the student's 25622  
tuition bill. 25623

Notwithstanding any other provision of this section or 25624  
sections 3333.73 to ~~3333.80~~ 3333.79 of the Revised Code, an Ohio 25625  
four-year nonpublic university or college may submit a proposal as 25626

lead applicant or co-lead applicant for an award under the Ohio 25627  
co-op/internship program if the proposal is to be implemented in 25628  
collaboration with a state institution of higher education. If the 25629  
chancellor grants a nonpublic university or college an award, the 25630  
nonpublic university or college shall comply with all requirements 25631  
of this section, sections 3333.73 to ~~3333.80~~ 3333.79 of the 25632  
Revised Code, and the rules adopted under this section that apply 25633  
to state institutions of higher education that receive awards 25634  
under the program. 25635

The chancellor shall adopt rules in accordance with Chapter 25636  
119. of the Revised Code to administer the Ohio co-op/internship 25637  
program. 25638

**Sec. 3334.08.** (A) Subject to division (B) of this section, in 25639  
addition to any other powers conferred by this chapter, the Ohio 25640  
tuition trust authority may do any of the following: 25641

(1) Impose reasonable residency requirements for 25642  
beneficiaries of tuition units; 25643

(2) Impose reasonable limits on the number of tuition unit 25644  
participants; 25645

(3) Impose and collect administrative fees and charges in 25646  
connection with any transaction under this chapter; 25647

(4) Purchase insurance from insurers licensed to do business 25648  
in this state providing for coverage against any loss in 25649  
connection with the authority's property, assets, or activities or 25650  
to further ensure the value of tuition units; 25651

(5) Indemnify or purchase policies of insurance on behalf of 25652  
members, officers, and employees of the authority from insurers 25653  
licensed to do business in this state providing for coverage for 25654  
any liability incurred in connection with any civil action, 25655  
demand, or claim against a director, officer, or employee by 25656

reason of an act or omission by the director, officer, or employee 25657  
that was not manifestly outside the scope of the employment or 25658  
official duties of the director, officer, or employee or with 25659  
malicious purpose, in bad faith, or in a wanton or reckless 25660  
manner; 25661

(6) Make, execute, and deliver contracts, conveyances, and 25662  
other instruments necessary to the exercise and discharge of the 25663  
powers and duties of the authority; 25664

(7) Promote, advertise, and publicize the Ohio college 25665  
savings program and the variable college savings program; 25666

(8) Adopt rules under section 111.15 of the Revised Code for 25667  
the implementation of the Ohio college savings program; 25668

(9) Contract, for the provision of all or part of the 25669  
services necessary for the management and operation of the Ohio 25670  
college savings program and the variable college savings program, 25671  
with a bank, trust company, savings and loan association, 25672  
insurance company, or licensed dealer in securities if the bank, 25673  
company, association, or dealer is authorized to do business in 25674  
this state and information about the contract is filed with the 25675  
controlling board pursuant to division (D)(6) of section 127.16 of 25676  
the Revised Code; provided, however, that any funds of the Ohio 25677  
college savings program and the variable college savings program 25678  
that are not needed for immediate use shall be deposited by the 25679  
treasurer of state in the same manner provided under Chapter 135. 25680  
of the Revised Code for public moneys of the state. All interest 25681  
earned on those deposits shall be credited to the Ohio college 25682  
savings program or the variable college savings program, as 25683  
applicable. 25684

(10) Contract for other services, or for goods, needed by the 25685  
authority in the conduct of its business, including but not 25686  
limited to credit card services; 25687

(11) Employ an executive director and other personnel as 25688  
necessary to carry out its responsibilities under this chapter, 25689  
and fix the compensation of these persons. All employees of the 25690  
authority shall be in the unclassified civil service and shall be 25691  
eligible for membership in the public employees retirement system. 25692  
In the hiring of the executive director, the Ohio tuition trust 25693  
authority shall obtain the advice and consent of the Ohio tuition 25694  
trust board created in section 3334.03 of the Revised Code, 25695  
provided that the executive director shall not be hired unless a 25696  
majority of the board votes in favor of the hiring. In addition, 25697  
the board may remove the executive director at any time subject to 25698  
the advice and consent of the chancellor of the Ohio board of 25699  
regents. 25700

(12) Contract with financial consultants, actuaries, 25701  
auditors, and other consultants as necessary to carry out its 25702  
responsibilities under this chapter; 25703

(13) Enter into agreements with any agency of the state or 25704  
its political subdivisions or with private employers under which 25705  
an employee may agree to have a designated amount deducted in each 25706  
payroll period from the wages or salary due the employee for the 25707  
purpose of purchasing tuition units pursuant to a tuition payment 25708  
contract or making contributions pursuant to a variable college 25709  
savings program contract; 25710

(14) Enter into an agreement with the treasurer of state 25711  
under which the treasurer of state will receive, and credit to the 25712  
Ohio tuition trust fund or variable college savings program fund, 25713  
from any bank or savings and loan association authorized to do 25714  
business in this state, amounts that a depositor of the bank or 25715  
association authorizes the bank or association to withdraw 25716  
periodically from the depositor's account for the purpose of 25717  
purchasing tuition units pursuant to a tuition payment contract or 25718  
making contributions pursuant to a variable college savings 25719

|   |  |
|---|--|
| program contract;   | 25720  |
| (15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental program;  | 25721<br>25722<br>25723  |
| (16) Impose limits on the number of units which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;   | 25724<br>25725<br>25726<br>25727                                     |
| (17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;   | 25728<br>25729<br>25730  |
| (18) Impose a limit on the age of a beneficiary, above which tuition units may not be purchased on behalf of that beneficiary;  | 25731<br>25732   |
| (19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;   | 25733<br>25734<br>25735  |
| (20) Determine the other higher education expenses for which tuition units or contributions may be used;  | 25736<br>25737   |
| (21) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years or more and there are fewer than a total of five tuition units or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination; | 25738<br>25739<br>25740<br>25741<br>25742<br>25743<br>25744<br>25745 |
| (22) Maintain a separate account for each tuition payment or variable college savings program contract;   | 25746<br>25747   |
| (23) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this   | 25748<br>25749   |

chapter. 25750

(B) The authority shall adopt rules under section 111.15 of 25751  
the Revised Code for the implementation and administration of the 25752  
variable college savings program. The rules shall provide 25753  
taxpayers with the maximum tax advantages and flexibility 25754  
consistent with section 529 of the Internal Revenue Code and 25755  
regulations adopted thereunder with regard to disposition of 25756  
contributions and earnings, designation of beneficiaries, and 25757  
rollover of account assets to other programs. 25758

(C) Except as otherwise specified in this chapter, the 25759  
provisions of Chapters 123., 125., and 4117. of the Revised Code 25760  
shall not apply to the authority. The department of administrative 25761  
services shall, upon the request of the authority, act as the 25762  
authority's agent for the purchase of equipment, supplies, 25763  
insurance, or services, or the performance of administrative 25764  
services pursuant to Chapter 125. of the Revised Code. 25765

**Sec. 3345.16.** The board of trustees of a state college or 25766  
university may receive, and hold in trust, for the use and benefit 25767  
of the college or university any grant or devise of land, and 25768  
donation or bequest of money or other personal property, to be 25769  
applied to the general or special use of the college or 25770  
university, including use for student loan and scholarship 25771  
purposes, unless otherwise directed in the donation or bequest. 25772

The board of trustees of a state college or university may 25773  
utilize trust funds to invest in property, real and personal, as a 25774  
portion of the holdings in the endowment portfolio under the trust 25775  
powers imparted to the board of trustees. Such property, real and 25776  
personal, acquired for investment purposes shall be managed by the 25777  
board of trustees in the same manner as are other investments in 25778  
the college's or university's endowment portfolio. The board of 25779  
trustees may lease, lease back, or otherwise contract for the use 25780

of such property in such manner as to provide earning power for 25781  
the college or university investment portfolio. Sections 123.01, 25782  
~~123.04~~ 123.02, ~~123.15~~ 123.10, and ~~123.47~~ 123.13 of the Revised 25783  
Code do not apply to properties, real and personal, held under 25784  
this section as earning-power properties in the college or 25785  
university endowment portfolio. 25786

Notwithstanding any provision of the Revised Code to the 25787  
contrary, the title in properties, real and personal, purchased by 25788  
a board of trustees as an investment and held in the college's or 25789  
university's endowment portfolio shall not be vested in the state, 25790  
but shall be held in trust by the board. 25791

**Sec. 3345.28.** The board of trustees of any state university, 25792  
medical university, technical college, state community college, 25793  
community college, or the board of trustees or managing authority 25794  
of any university branch may establish and administer a faculty 25795  
improvement program, under which any full-time faculty member with 25796  
at least seven academic years of teaching service at the college, 25797  
university, or branch may be granted professional leave for a 25798  
period not to exceed one academic year to engage in further 25799  
education, research, or any other purpose approved by the board. A 25800  
board of trustees or managing authority that establishes such a 25801  
program shall, by rule, adopt a definition of "academic years of 25802  
teaching service" and of "full-time faculty member." 25803

No such board or authority shall pay any faculty member for 25804  
or during a period of professional leave any salary exceeding the 25805  
amount that would have been paid to such faculty member for 25806  
performing the faculty member's regular duties during the period 25807  
of the leave. No faculty member shall, by virtue of being on 25808  
professional leave, suffer a reduction or termination of the 25809  
faculty member's regular employee retirement or insurance benefits 25810  
or of any other benefit or privilege being received as a faculty 25811

member at the college, university, or branch where the faculty 25812  
member is employed. Whenever such a benefit would be reduced 25813  
because of a reduction in the faculty member's salary during the 25814  
period of professional leave, the faculty member shall be given a 25815  
chance to have the benefit increased to its normal level, in 25816  
accordance with rules adopted by the board of trustees or the 25817  
managing authority. A faculty member who has been granted 25818  
professional leave shall complete another seven years of service 25819  
at the college, university, or branch at which the faculty member 25820  
is employed before becoming eligible for another grant of 25821  
professional leave at that college, university, or branch. 25822  
Professional leave taken as part of a faculty improvement program 25823  
established under this section shall not be deemed to be in lieu 25824  
of released time or assigned duty in connection with a specific 25825  
research, scholarly, or creative program. 25826

Boards of trustees and managing authorities may accept moneys 25827  
from any person, political subdivision, or the federal government 25828  
to support a faculty improvement program, and may establish such 25829  
additional rules as are necessary to establish and administer it. 25830

Each grant of professional leave shall be in accordance with 25831  
a professional improvement policy for professional leaves that has 25832  
been approved by the board of trustees or the managing authority. 25833  
No professional leave shall be granted that requires a 25834  
compensating addition to the permanent faculty or staff of the 25835  
college, university, or branch. No professional leave shall be 25836  
approved unless a specific plan for the professional improvement 25837  
of the faculty member while on leave has been submitted to and 25838  
accepted by the president of the university, college, or branch. 25839  
At the completion of the leave, the faculty member shall submit to 25840  
the president a report detailing the attainments of the faculty 25841  
member under this professional improvement plan. 25842

~~Not later than the thirtieth day of June of each year, the~~ 25843

~~chancellor of the board of regents shall report to the 25844  
chairpersons of the education committees of the house of 25845  
representatives and the senate on the status of implementation of 25846  
faculty improvement programs. The report shall include, but need 25847  
not be limited to, the following: the number of professional leave 25848  
grants made by each institution; the purpose of each professional 25849  
leave; and a statement of the cost to the institution of each 25850  
professional leave, to the extent that such cost exceeds the 25851  
salary of the faculty member on professional leave. 25852~~

**Sec. 3345.50.** Notwithstanding anything to the contrary in 25853  
sections 123.01 and ~~123.15~~ 123.10 of the Revised Code, a state 25854  
university, a state community college, or the northeast Ohio 25855  
medical university not certified pursuant to section ~~123.17~~ 123.24 25856  
of the Revised Code may administer any capital facilities project 25857  
for the construction, reconstruction, improvement, renovation, 25858  
enlargement, or alteration of a public improvement under its 25859  
jurisdiction for which the total amount of funds expected to be 25860  
appropriated by the general assembly does not exceed four million 25861  
dollars without the supervision, control, or approval of the 25862  
~~department of administrative services~~ Ohio facilities construction 25863  
commission as specified in those sections, if both of the 25864  
following occur: 25865

(A) Within sixty days after the effective date of the section 25866  
of an act in which the general assembly initially makes an 25867  
appropriation for the project, the board of trustees of the 25868  
institution notifies the chancellor of the Ohio board of regents 25869  
in writing of its intent to administer the capital facilities 25870  
project; 25871

(B) The board of trustees complies with the guidelines 25872  
established pursuant to section 153.16 of the Revised Code and all 25873  
laws that govern the selection of consultants, preparation and 25874

approval of contract documents, receipt of bids, and award of 25875  
contracts with respect to the project. 25876

The chancellor shall adopt rules in accordance with Chapter 25877  
119. of the Revised Code that establish criteria for the 25878  
administration by any such institution of higher education of a 25879  
capital facilities project for which the total amount of funds 25880  
expected to be appropriated by the general assembly exceeds four 25881  
million dollars. The criteria, to be developed with the ~~department~~ 25882  
~~of administrative services~~ Ohio facilities construction commission 25883  
and higher education representatives selected by the chancellor, 25884  
shall include such matters as the adequacy of the staffing levels 25885  
and expertise needed for the institution to administer the 25886  
project, past performance of the institution in administering such 25887  
projects, and the amount of institutional or other nonstate money 25888  
to be used in financing the project. The chancellor and the 25889  
~~department of administrative services~~ Ohio facilities construction 25890  
commission shall approve the request of any such institution of 25891  
higher education that seeks to administer any such capital 25892  
facilities project and meets the criteria set forth in the rules 25893  
and in the requirements of division (B) of this section. 25894

**Sec. 3345.51.** (A) Notwithstanding anything to the contrary in 25895  
sections ~~123.01~~ 123.20 and ~~123.15~~ 123.21 of the Revised Code, a 25896  
state university, the northeast Ohio medical university, or a 25897  
state community college may administer any capital facilities 25898  
project for the construction, reconstruction, improvement, 25899  
renovation, enlargement, or alteration of a public improvement 25900  
under its jurisdiction for which funds are appropriated by the 25901  
general assembly without the supervision, control, or approval of 25902  
the ~~department of administrative services~~ Ohio facilities 25903  
construction commission as specified in those sections, if all of 25904  
the following occur: 25905

(1) The institution is certified by the ~~state architect~~ 25906  
commission under section ~~123.17~~ 123.24 of the Revised Code; 25907

(2) Within sixty days after the effective date of the section 25908  
of an act in which the general assembly initially makes an 25909  
appropriation for the project, the board of trustees of the 25910  
institution notifies the chancellor of the Ohio board of regents 25911  
in writing of its request to administer the capital facilities 25912  
project and the chancellor approves that request pursuant to 25913  
division (B) of this section; 25914

(3) The board of trustees passes a resolution stating its 25915  
intent to comply with section 153.13 of the Revised Code and the 25916  
guidelines established pursuant to section 153.16 of the Revised 25917  
Code and all laws that govern the selection of consultants, 25918  
preparation and approval of contract documents, receipt of bids, 25919  
and award of contracts with respect to the project. 25920

(B) The chancellor shall adopt rules in accordance with 25921  
Chapter 119. of the Revised Code that establish criteria for the 25922  
administration by any such institution of higher education of a 25923  
capital facilities project for which the general assembly 25924  
appropriates funds. The criteria, to be developed with the 25925  
~~department of administrative services~~ commission and higher 25926  
education representatives selected by the chancellor, shall 25927  
include such matters as the adequacy of the staffing levels and 25928  
expertise needed for the institution to administer the project, 25929  
past performance of the institution in administering such 25930  
projects, and the amount of institutional or other nonstate money 25931  
to be used in financing the project. The chancellor shall approve 25932  
the request of any such institution of higher education that seeks 25933  
to administer any such capital facilities project and meets the 25934  
criteria set forth in the rules and the requirements of division 25935  
(A) of this section. 25936

(C) Any institution that administers a capital facilities 25937

project under this section shall conduct biennial audits for the 25938  
duration of the project to ensure that the institution is 25939  
complying with Chapters 9., 123., and 153. of the Revised Code and 25940  
that the institution is using its certification issued under 25941  
section ~~123.17~~ 123.24 of the Revised Code appropriately. The 25942  
chancellor, in consultation with higher education representatives 25943  
selected by the chancellor, shall adopt rules in accordance with 25944  
Chapter 119. of the Revised Code that establish criteria for the 25945  
conduct of the audits. The criteria shall include documentation 25946  
necessary to determine compliance with Chapters 9., 123., and 153. 25947  
of the Revised Code and a method to determine whether an 25948  
institution is using its certification issued under section ~~123.17~~ 25949  
123.24 of the Revised Code appropriately. 25950

(D) The chancellor, in consultation with higher education 25951  
representatives selected by the chancellor, shall adopt rules in 25952  
accordance with Chapter 119. of the Revised Code establishing 25953  
criteria for monitoring capital facilities projects administered 25954  
by institutions under this section. The criteria shall include the 25955  
following: 25956

(1) Conditions under which the chancellor may revoke the 25957  
authority of an institution to administer a capital facilities 25958  
project under this section, including the failure of an 25959  
institution to maintain a sufficient number of employees who have 25960  
successfully completed the certification program under section 25961  
~~123.17~~ 123.24 of the Revised Code; 25962

(2) A process for institutions to remedy any problems found 25963  
by an audit conducted pursuant to division (C) of this section, 25964  
including the improper use of state funds or violations of Chapter 25965  
9., 123., or 153. of the Revised Code. 25966

(E) If the chancellor revokes an institution's authority to 25967  
administer a capital facilities project, the ~~department of~~ 25968  
~~administrative services~~ commission shall administer the capital 25969

facilities project. The chancellor also may require an 25970  
institution, for which the chancellor revoked authority to 25971  
administer a capital facilities project, to acquire a new local 25972  
administration competency certification pursuant to section ~~123.17~~ 25973  
123.24 of the Revised Code. 25974

**Sec. 3345.54.** (A) As used in this section: 25975

(1) "Auxiliary facilities" has the same meaning as in section 25976  
3345.12 of the Revised Code. 25977

(2) "Conduit entity" means an organization described in 25978  
section 501(c)(3) of the Internal Revenue Code qualified as a 25979  
public charity under section 509(a)(2) or 509(a)(3) of the 25980  
Internal Revenue Code, or any other appropriate legal entity 25981  
selected by the state institution, whose corporate purpose allows 25982  
it to perform the functions and obligations of a conduit entity 25983  
pursuant to the terms of a financing agreement. 25984

(3) "Conveyed property" means auxiliary facilities conveyed 25985  
by a state institution to a conduit entity pursuant to a financing 25986  
agreement. 25987

(4) "Financing agreement" means a contract described in 25988  
division (C) of this section. 25989

(5) "Independent funding source" means a private entity that 25990  
enters into a financing agreement with a conduit entity and a 25991  
state institution. 25992

(6) "State institution" means a state institution of higher 25993  
education as defined in section 3345.011 of the Revised Code. 25994

(B) The board of trustees of a state institution, with the 25995  
approval of the chancellor of the Ohio board of regents and the 25996  
controlling board, may enter into a financing agreement with a 25997  
conduit entity and an independent funding source selected either 25998  
through a competitive selection process or by direct negotiations, 25999

and may convey to the conduit entity title to any auxiliary 26000  
facilities owned by the state institution pursuant to the terms of 26001  
a financing agreement. 26002

(C) A financing agreement under this section is a written 26003  
contract entered into among a state institution, a conduit entity, 26004  
and an independent funding source that provides for: 26005

(1) The conveyance of auxiliary facilities owned by a state 26006  
institution to the conduit entity for consideration deemed 26007  
adequate by the state institution; 26008

(2) The lease of the conveyed property by the conduit entity 26009  
to the independent funding source and leaseback of the conveyed 26010  
property to the conduit entity for a term not to exceed 26011  
ninety-nine years; 26012

(3) Such other terms and conditions that may be negotiated 26013  
and agreed upon by the parties, including, but not limited to, 26014  
terms regarding: 26015

(a) Payment to the state institution by the conduit entity of 26016  
revenues received by it from the operations of the conveyed 26017  
property in excess of the payments it is required to make to the 26018  
independent funding source under the lease-leaseback arrangement 26019  
described in division (C)(2) of this section; 26020

(b) Pledge, assignment, or creation of a lien in favor of the 26021  
independent funding source by the conduit entity of any revenues 26022  
derived from the conveyed property; 26023

(c) Reverter or conveyance of title to the conveyed property 26024  
to the state institution when the conveyed property is no longer 26025  
subject to a lease with the independent funding source. 26026

(4) Terms and conditions required by the chancellor or the 26027  
controlling board as a condition of approval of the financing 26028  
agreement. 26029

(D) The state institution and the conduit entity may enter 26030  
into such other management agreements or other contracts regarding 26031  
the conveyed property the parties deem appropriate, including 26032  
agreements pursuant to which the state institution may maintain or 26033  
administer the conveyed property and collect and disburse revenues 26034  
from the conveyed property on behalf of the conduit entity. 26035

(E) The parties may modify or extend the term of the 26036  
financing agreement with the approval of the chancellor and the 26037  
controlling board. 26038

(F) The conveyed property shall retain its exemption from 26039  
property taxes and assessments as though title to the conveyed 26040  
property were held by the state institution during any part of a 26041  
tax year that title is held by the state institution or the 26042  
conduit entity and, if held by the conduit entity, remains subject 26043  
to the lease-leaseback arrangement described in division (C)(2) of 26044  
this section. However, as a condition of the continued exemption 26045  
of the conveyed property during the term of the lease-leaseback 26046  
arrangement the conduit entity shall apply for and maintain the 26047  
exemption as provided by law. 26048

(G) Nothing in this section is intended to abrogate, amend, 26049  
limit, or replace any existing authority state institutions may 26050  
have with respect to the conveyance, lease, lease-leaseback, 26051  
finance, or acquisition of auxiliary facilities including, but not 26052  
limited to, authority granted under sections 3345.07, 3345.11, and 26053  
3345.12 of the Revised Code. 26054

**Sec. 3345.69.** (A) As used in this section: 26055

(1) "State institution of higher education" has the same 26056  
meaning as in section 3345.011 of the Revised Code. 26057

(2) "Board of trustees of a state institution of higher 26058  
education" has the same meaning as in section 3345.61 of the 26059

Revised Code. 26060

(B) The chairperson of the interuniversity council of Ohio 26061  
and the secretary of the Ohio association of community colleges 26062  
shall assist in coordinating the organization and operation of a 26063  
committee to carry out this section. The committee shall be 26064  
comprised of the presidents of the state institutions of higher 26065  
education or their designees. The committee, in consultation with 26066  
~~the office of energy services of the department of administrative~~ 26067  
~~services~~ Ohio facilities construction commission, shall develop 26068  
guidelines for the board of trustees of each state institution of 26069  
higher education to use in ensuring energy efficiency and 26070  
conservation in on- and off-campus buildings. ~~Initial guidelines~~ 26071  
~~shall be adopted not later than ninety days after the effective~~ 26072  
~~date of this section.~~ At a minimum, guidelines under this section 26073  
shall do all of the following: 26074

(1) Include a goal to reduce on- and off-campus building 26075  
energy consumption by at least twenty per cent by 2014, using 26076  
calendar year 2004 as the benchmark year, while recognizing the 26077  
diverse nature and different energy demands and uses of such 26078  
buildings and measures already taken to increase building energy 26079  
efficiency and conservation; 26080

(2) Prescribe minimum energy efficiency and conservation 26081  
standards for any new, on- or off-campus capital improvement 26082  
project with a construction cost of one hundred thousand dollars 26083  
or more, which standards shall be based on general building type 26084  
and cost-effectiveness; 26085

(3) Prescribe minimum energy efficiency and conservation 26086  
standards for the leasing of an off-campus space of at least 26087  
twenty-thousand square feet; 26088

(4) Incorporate best practices into energy efficiency and 26089  
conservation standards and plans; 26090

|  |   |
|--|---|
| (5) Provide that each board develop its own fifteen-year plan for phasing in energy efficiency and conservation projects;  | 26091<br>26092  |
| (6) Provide that project impact assessments include the fiscal effects of energy efficiency and conservation recommendations and plans;  | 26093<br>26094<br>26095   |
| (7) Establish mechanisms for each board to report periodically to the committee on its progress relative to the guidelines.  | 26096<br>26097<br>26098   |
| (C) The board of trustees of a state institution of higher education shall adopt rules under section 111.15 of the Revised Code to carry out the guidelines established pursuant to division (B) of this section, including in the execution of the board's authority under sections 3345.62 to 3345.66 of the Revised Code.   | 26099<br>26100<br>26101<br>26102<br>26103                                     |
| <b>Sec. 3345.692.</b> (A) Not later than September 15, 2010, and the fifteenth day of September each year thereafter, a state institution of higher education shall prepare and submit to the chancellor of the board of regents a report that describes the number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by the state institution of higher education for those biobased products.   | 26104<br>26105<br>26106<br>26107<br>26108<br>26109<br>26110                   |
| <del>(B) Not later than September 30, 2010, and the thirtieth day of September each year thereafter, the chancellor of the board of regents shall prepare and submit to the governor, the president of the senate, and the speaker of the house of representatives a report that describes the number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by state institutions of higher education for those biobased products as that information is provided to the chancellor under division (A) of this section.</del> | 26111<br>26112<br>26113<br>26114<br>26115<br>26116<br>26117<br>26118<br>26119 |
| <del>(C) As used in this section, "state institution of higher</del>   | 26120   |

education" has the same meaning as in section 3345.011 of the Revised Code.

**Sec. 3347.03.** Each commission created by section 3347.01 of the Revised Code may acquire property of any kind by purchase, gift, or devise and hold and use any such property, or may use state lands at their respective universities upon consent of the respective boards of trustees thereof, for the erection, remodeling, or improving and equipping of buildings for suitable housing, dormitory, dining hall, and recreational accommodations, referred to as "buildings" in sections 3347.03 to 3347.08 of the Revised Code, for students, instructors, members of the faculty, the administration and maintenance staff of the universities with which each commission is identified, and their families. The construction, remodeling, or improving of any such buildings shall be in accordance with plans and specifications approved by the commission and with sections 153.01 and 153.04 to 153.20 of the Revised Code, except that the commission may act in all instances where the ~~department of administrative services~~ Ohio facilities construction commission is mentioned in such sections.

**Sec. 3356.10.** During the five-year period after the effective date of this section, the governor may execute deeds in the name of the state conveying to one or more purchasers and the purchasers' heirs and assigns or successors and assigns all of the state's right, title, and interest in any or all parcels of real estate held for the use and benefit of Youngstown state university and located in the city of Youngstown, Mahoning county, in an area known as "smokey hollow" and bounded on the north by the east-bound service road of the Madison avenue expressway, on the east by Andrews avenue, on the south by Rayen avenue, and on the west by Wick avenue. The parcel or parcels of real estate may be transferred individually or as a group or multiple groups to a

single purchaser or to multiple purchasers. 26152

The consideration for conveyance of the parcel or parcels of 26153  
real estate shall be a purchase price and any terms and conditions 26154  
acceptable to the board of trustees of Youngstown state 26155  
university. The consideration may include in whole or in part the 26156  
benefit that will inure to the university and the students 26157  
attending the university from development of a mixed-use urban 26158  
neighborhood that will provide convenient housing, retail outlets, 26159  
parks, and employment opportunities on a site adjacent to the 26160  
university's core campus. 26161

All costs of the conveyance of the parcel or parcels of real 26162  
estate shall be paid by the board of trustees of the Youngstown 26163  
state university unless otherwise specified in the agreement for 26164  
transfer of the property. 26165

Upon adoption of a resolution by the board of trustees of 26166  
Youngstown state university specifically describing the parcel or 26167  
parcels of real estate to be conveyed, identifying the purchaser 26168  
or purchasers of the real estate, and specifying the consideration 26169  
paid or to be paid, the auditor of state, with the assistance of 26170  
the attorney general, shall prepare a deed or deeds to the parcel 26171  
or parcels of real estate described in the resolution. The deed or 26172  
deeds shall state the consideration specified in the resolution. 26173  
The deed or deeds shall be executed by the governor in the name of 26174  
the state, countersigned by the secretary of state, sealed with 26175  
the great seal of the state, presented in the office of the 26176  
auditor of state for recording, and delivered to the purchaser or 26177  
purchasers. The purchaser or purchasers shall present the deed or 26178  
deeds for recording in the office of the Mahoning county recorder. 26179

Each deed to any property described in this section shall 26180  
contain any exceptions, reservations, or conditions and any right 26181  
of reentry or reverter clause specified in the resolution. Any 26182

exceptions, reservations, or conditions or any right of reentry or 26183  
reverter clause contained in any deed authorized by this section 26184  
may be released by the university without the necessity of further 26185  
legislation, provided the release is specifically authorized by 26186  
the board of trustees of Youngstown state university. 26187

The net proceeds of the sale of the parcel or parcels of real 26188  
estate shall be paid to Youngstown state university and deposited 26189  
in university accounts for purposes to be determined by the board 26190  
of trustees. 26191

**Sec. 3366.05.** The issuing authority, as an eligible 26192  
not-for-profit holder of federal education loans, may act as an 26193  
eligible not-for-profit servicer of certain student loans owned by 26194  
the federal government under Section 2212 of the "Health Care and 26195  
Education Reconciliation Act of 2010," Pub. L. No. 111-152. The 26196  
issuing authority is authorized to take such actions and to enter 26197  
into such contracts and to execute all instruments necessary or 26198  
appropriate to act as an eligible not-for-profit servicer. 26199  
Notwithstanding division (C) of section 3366.03 and division (B) 26200  
of section 3366.04 of the Revised Code, revenues received by the 26201  
issuing authority under this section shall be deposited in an 26202  
account in the custody of the treasurer of state that is not part 26203  
of the state treasury and shall be used to pay administrative 26204  
costs incurred by the issuing authority. Unexpended amounts shall 26205  
be deposited in the state treasury and credited to the treasurer 26206  
of state's administrative fund created under section 113.20 of the 26207  
Revised Code. 26208

**Sec. 3375.405.** (A) As used in this section, "energy 26209  
conservation measure" means the construction of, installation or 26210  
modification of an installation in, or remodeling of, a new or 26211  
existing building, to reduce energy consumption. It includes: 26212

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| <u>(1) Insulation of the building structure and of systems</u>            | 26213 |
| <u>within the building;</u>   | 26214 |
| <u>(2) Storm windows and doors, multi-glazed windows and doors,</u>       | 26215 |
| <u>heat-absorbing or heat-reflective glazed and coated window and</u>     | 26216 |
| <u>door systems, additional glazing, reductions in glass area, and</u>    | 26217 |
| <u>other window and door system modifications that reduce energy</u>      | 26218 |
| <u>consumption;</u>   | 26219 |
| <u>(3) Automatic energy control systems;</u>                              | 26220 |
| <u>(4) Heating, ventilating, or air conditioning system</u>               | 26221 |
| <u>modifications or replacements;</u>                                     | 26222 |
| <u>(5) Caulking and weather-stripping;</u>                                | 26223 |
| <u>(6) Replacement or modification of lighting fixtures to</u>            | 26224 |
| <u>increase the energy efficiency of the system without increasing</u>    | 26225 |
| <u>the overall illumination of a facility, unless such an increase in</u> | 26226 |
| <u>illumination is necessary to conform to the applicable state or</u>    | 26227 |
| <u>local building code for the proposed lighting system;</u>              | 26228 |
| <u>(7) Energy recovery systems;</u>                                       | 26229 |
| <u>(8) Cogeneration systems that produce steam or forms of</u>            | 26230 |
| <u>energy such as heat, as well as electricity, for use primarily</u>     | 26231 |
| <u>within a building or complex of buildings;</u>                         | 26232 |
| <u>(9) Acquiring, constructing, furnishing, equipping, improving</u>      | 26233 |
| <u>the site of, or otherwise improving a central utility plant to</u>     | 26234 |
| <u>provide heating and cooling services to a building together with</u>   | 26235 |
| <u>distribution piping and ancillary distribution controls,</u>           | 26236 |
| <u>equipment, and related facilities from the central utility plant</u>   | 26237 |
| <u>to the building; and</u>   | 26238 |
| <u>(10) Any other construction, modification, installation, or</u>        | 26239 |
| <u>remodeling approved by a board of library trustees as an energy</u>    | 26240 |
| <u>conservation measure.</u>  | 26241 |
| <u>(B) For the purpose of evaluating library buildings for</u>            | 26242 |

energy conservation measures, a board of library trustees 26243  
appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 26244  
3375.22, or 3375.30 of the Revised Code may contract with an 26245  
architect, professional engineer, energy services company, 26246  
contractor, or other person experienced in the design and 26247  
implementation of energy conservation measures for an energy 26248  
conservation report. Such a report shall include all of the 26249  
following: 26250

(1) Analyses of the energy needs of library buildings and 26251  
recommendations for building installations, modifications of 26252  
existing installations, or building remodeling that would 26253  
significantly reduce energy consumption in the buildings; 26254

(2) Estimates of all costs of the recommended installations, 26255  
modifications, or remodeling, including costs of design, 26256  
engineering, installation, maintenance, and repair; 26257

(3) Estimates of the amounts by which energy consumption 26258  
could be reduced; 26259

(4) The interest rate used to estimate the costs of any 26260  
energy conservation measures that are to be financed by the 26261  
library; 26262

(5) The average system life of the energy conservation 26263  
measures; 26264

(6) Estimates of the likely savings that will result from the 26265  
reduction in energy consumption over the average system life of 26266  
the energy conservation measures, including the methods used to 26267  
estimate the savings; and 26268

(7) A certification under the seal of a registered 26269  
professional engineer that the energy conservation report uses 26270  
reasonable methods of analysis and estimation. 26271

(C)(1) A board of library trustees appointed pursuant to 26272

section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of 26273  
the Revised Code desiring to implement energy conservation 26274  
measures may proceed under any of the following methods: 26275

(a) Procure the energy conservation measures in any manner 26276  
authorized by existing authority. 26277

(b) Advertise for bids using an energy conservation report or 26278  
any part of an energy conservation report prepared under division 26279  
(B) of this section, and, except as otherwise provided in this 26280  
section, comply with competitive bidding requirements applicable 26281  
to the board of library trustees. 26282

(c) Notwithstanding any requirement in the Revised Code that 26283  
requires competitive bidding or specifies bidding procedures, 26284  
request proposals from at least three vendors for the 26285  
implementation of energy conservation measures. A request for 26286  
proposals shall require the vendor that is awarded a contract 26287  
under division (C)(2)(b) of this section to prepare an energy 26288  
conservation report in accordance with division (B) of this 26289  
section. 26290

Prior to sending any vendor a copy of any request for 26291  
proposals, the board of library trustees shall advertise its 26292  
intent to request proposals for the installation of energy 26293  
conservation measures in a newspaper of general circulation within 26294  
the territorial boundaries of the political subdivision or 26295  
district over which it has jurisdiction of free public library 26296  
services once a week for two consecutive weeks. The notice shall 26297  
state that the board of trustees intends to request proposals for 26298  
the installation of energy conservation measures, indicate the 26299  
date on which the request for proposals will be mailed to vendors, 26300  
which shall be at least ten days after the second publication in 26301  
the newspaper, and state that any vendor interested in receiving 26302  
the request for proposals shall submit written notice to the board 26303  
of library trustees not later than noon of the day on which the 26304

request for proposals is to be mailed. 26305

(2)(a) Upon receiving bids under division (C)(1)(b) of this section, the board of library trustees shall analyze them and select the lowest and best bid or bids most likely to result in the greatest energy savings considering the cost of the project and the board of library trustees' ability to pay for the improvements with current revenues or by financing the improvements. 26306  
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(b) Upon receiving proposals under division (C)(1)(c) of this section, the board of library trustees shall analyze the proposals and the vendors' qualifications and select the most qualified vendor to prepare an energy conservation report in accordance with division (B) of this section. After receipt and review of the energy conservation report, the board of library trustees may award a contract to the selected vendor to install the energy conservation measures that are most likely to result in the greatest energy savings considering the cost of the project and the board of library trustees' ability to pay for the improvements with current revenues or by financing the improvements. 26313  
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(c) The awarding of a contract to install energy conservation measures under division (C)(2)(a) or (b) of this section shall be conditioned upon a finding by the board of library trustees that the amount of money spent on energy conservation measures is not likely to exceed the amount of money the library would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report. In making such a finding, the board of trustees may take into account the increased costs due to inflation as shown in the energy conservation report. Nothing in this division prohibits a board of library trustees from rejecting all bids or proposals under division (C)(1)(b) or (c) of this section or from selecting more than one bid or 26324  
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proposal. 26337

(D) A board of library trustees appointed pursuant to section 26338  
3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the 26339  
Revised Code may contract for the purchase and installation of 26340  
energy conservation measures as provided in division (C) of 26341  
section 3375.40 of the Revised Code. 26342

**Sec. 3383.02.** (A) There is hereby created the Ohio cultural 26343  
facilities commission. The commission shall engage in and provide 26344  
for the development, performance, and presentation or making 26345  
available of culture and professional sports and athletics to the 26346  
public in this state, and the provision of training or education 26347  
in culture, by the exercise of its powers under this chapter, 26348  
including the provision, operation, management, and cooperative 26349  
use of Ohio cultural facilities and Ohio sports facilities. The 26350  
commission is a body corporate and politic, an agency of state 26351  
government and an instrumentality of the state, performing 26352  
essential governmental functions of this state. The carrying out 26353  
of the purposes and the exercise by the commission of its powers 26354  
conferred by this chapter are essential public functions and 26355  
public purposes of the state and of state government. The 26356  
commission may, in its own name, sue and be sued, enter into 26357  
contracts, and perform all the powers and duties given to it by 26358  
this chapter; however, it does not have and shall not exercise the 26359  
power of eminent domain. 26360

(B) The commission shall consist of twelve members, nine of 26361  
whom shall be voting members and three of whom shall be nonvoting 26362  
members. The nine voting members shall be appointed by the 26363  
governor, with the advice and consent of the senate, from 26364  
different geographical regions of the state. In addition, one of 26365  
the voting members shall represent the ~~state architect~~ Ohio 26366  
facilities construction commission. Not more than five of the 26367

members appointed by the governor shall be affiliated with the 26368  
same political party. The nonvoting members shall be the staff 26369  
director of the Ohio arts council, a member of the senate 26370  
appointed by the president of the senate, and a member of the 26371  
house of representatives appointed by the speaker of the house. 26372

(C) Of the five initial appointments made by the governor, 26373  
one shall be for a term expiring December 31, 1989, two shall be 26374  
for terms expiring December 31, 1990, and two shall be for terms 26375  
expiring December 31, 1991. Of the initial appointments of the 26376  
sixth and seventh voting members made by the governor, one shall 26377  
be for a term expiring December 31, 2003, and one shall be for a 26378  
term expiring December 31, 2004. Of the initial appointments of 26379  
the eighth and ninth voting members made by the governor, one 26380  
shall be for a term expiring December 31, 2007, and one shall be 26381  
for a term expiring December 31, 2008. These voting members shall 26382  
be appointed within sixty days after ~~the effective date of this~~ 26383  
~~amendment~~ September 29, 2005. Thereafter, each such term shall be 26384  
for three years, commencing on the first day of January and ending 26385  
on the thirty-first day of December. Each appointment by the 26386  
president of the senate and by the speaker of the house of 26387  
representatives shall be for the balance of the then legislative 26388  
biennium. Each member shall hold office from the date of the 26389  
member's appointment until the end of the term for which the 26390  
member was appointed. Any member appointed to fill a vacancy 26391  
occurring prior to the expiration of the term for which the 26392  
member's predecessor was appointed shall hold office for the 26393  
remainder of such term. Any member shall continue in office 26394  
subsequent to the expiration date of the member's term until the 26395  
member's successor takes office, or until a period of sixty days 26396  
has elapsed, whichever occurs first. 26397

(D) Members of the commission shall serve without 26398  
compensation. 26399

(E) Organizational meetings of the commission shall be held 26400  
at the first meeting of each calendar year. At each organizational 26401  
meeting, the commission shall elect from among its voting members 26402  
a chairperson, a vice-chairperson, and a secretary-treasurer, who 26403  
shall serve until the next annual meeting. The commission shall 26404  
adopt rules pursuant to section 111.15 of the Revised Code for the 26405  
conduct of its internal business and shall keep a journal of its 26406  
proceedings. 26407

(F) Five voting members of the commission constitute a 26408  
quorum, and the affirmative vote of five members is necessary for 26409  
approval of any action taken by the commission. A vacancy in the 26410  
membership of the commission does not impair a quorum from 26411  
exercising all the rights and performing all the duties of the 26412  
commission. Meetings of the commission may be held anywhere in the 26413  
state, and shall be held in compliance with section 121.22 of the 26414  
Revised Code. 26415

(G) All expenses incurred in carrying out this chapter are 26416  
payable solely from money accrued under this chapter or 26417  
appropriated for these purposes by the general assembly, and the 26418  
commission shall incur no liability or obligation beyond such 26419  
money. 26420

(H) The commission shall file an annual report of its 26421  
activities and finances with the governor, director of budget and 26422  
management, speaker of the house of representatives, president of 26423  
the senate, and chairpersons of the house and senate finance 26424  
committees. 26425

(I) There is hereby established in the state treasury the 26426  
Ohio cultural facilities commission administration fund. All 26427  
revenues of the commission shall be credited to that fund and to 26428  
any accounts created in that fund with the commission's approval. 26429  
All expenses of the commission, including reimbursement of, or 26430  
payment to, any other fund or any governmental agency for advances 26431

made or services rendered to or on behalf of the commission, shall 26432  
be paid from that fund as determined by or pursuant to directions 26433  
of the commission. All investment earnings of that fund shall be 26434  
credited to it and shall be allocated among any accounts created 26435  
in the fund in the manner determined by the commission. 26436

(J) Title to all real property and lesser interests in real 26437  
property acquired by the commission, including leasehold and other 26438  
interests, pursuant to this chapter shall be taken in the name of 26439  
the state and shall be held for the use and benefit of the 26440  
commission. The commission shall not mortgage such real property 26441  
and interests in real property. Title to other property and 26442  
interests in it acquired by the commission pursuant to this 26443  
chapter shall be taken in its name. 26444

**Sec. 3383.07.** (A) ~~The department of administrative services~~ 26445  
Ohio facilities construction commission shall provide for the 26446  
construction of a cultural project in conformity with Chapter 153. 26447  
of the Revised Code, except as follows: 26448

(1) For a cultural project other than a state historical 26449  
facility, construction services may be provided on behalf of the 26450  
state by the Ohio cultural facilities commission, or by a 26451  
governmental agency or a cultural organization that occupies, will 26452  
occupy, or is responsible for the Ohio cultural facility, as 26453  
determined by the Ohio cultural facilities commission. For a 26454  
project receiving a state appropriation of fifty thousand dollars 26455  
or less, the Ohio cultural facilities commission may delegate to 26456  
its executive director the authority to approve the provision of 26457  
construction services by such an agency or organization, but not 26458  
the authority to disapprove that provision. Construction services 26459  
to be provided by a governmental agency or a cultural organization 26460  
shall be specified in an agreement between the Ohio cultural 26461  
facilities commission and the governmental agency or cultural 26462

organization. The agreement, or any actions taken under it, are 26463  
not subject to Chapter 123. or 153. of the Revised Code, except 26464  
for sections 123.081 and 153.011 of the Revised Code, and shall be 26465  
subject to Chapter 4115. of the Revised Code. 26466

(2) For a cultural project that is a state historical 26467  
facility, construction services may be provided by the Ohio 26468  
cultural facilities commission or by a cultural organization that 26469  
occupies, will occupy, or is responsible for the facility, as 26470  
determined by the Ohio cultural facilities commission. For a 26471  
facility receiving a state appropriation of fifty thousand dollars 26472  
or less, the Ohio cultural facilities commission may delegate to 26473  
its executive director the authority to approve the provision of 26474  
construction services by such an organization, but not the 26475  
authority to disapprove that provision. The construction services 26476  
to be provided by the cultural organization shall be specified in 26477  
an agreement between the Ohio cultural facilities commission and 26478  
the cultural organization. That agreement, and any actions taken 26479  
under it, are not subject to Chapter 123., 153., or 4115. of the 26480  
Revised Code. 26481

(B) For an Ohio sports facility that is financed in part by 26482  
obligations issued pursuant to Chapter 154. of the Revised Code, 26483  
construction services shall be provided on behalf of the state by 26484  
or at the direction of the governmental agency or nonprofit 26485  
corporation that will own or be responsible for the management of 26486  
the facility, all as determined by the Ohio cultural facilities 26487  
commission. For a facility receiving a state appropriation of 26488  
fifty thousand dollars or less, the Ohio cultural facilities 26489  
commission may delegate to its executive director the authority to 26490  
approve the provision of construction services by or at the 26491  
direction of the agency or corporation, but not the authority to 26492  
disapprove that provision. Any construction services to be 26493  
provided by a governmental agency or nonprofit corporation shall 26494

be specified in an agreement between the Ohio cultural facilities 26495  
commission and the governmental agency or nonprofit corporation. 26496  
That agreement, and any actions taken under it, are not subject to 26497  
Chapter 123. or 153. of the Revised Code, except for sections 26498  
123.081 and 153.011 of the Revised Code, and shall be subject to 26499  
Chapter 4115. of the Revised Code. 26500

(C) General building services for an Ohio cultural facility 26501  
shall be provided by the Ohio cultural facilities commission or by 26502  
a cultural organization that occupies, will occupy, or is 26503  
responsible for the facility, as determined by the Ohio cultural 26504  
facilities commission. For a facility receiving a state 26505  
appropriation of fifty thousand dollars or less, the Ohio cultural 26506  
facilities commission may delegate to its executive director the 26507  
authority to approve the provision of general building services by 26508  
such an organization, but not the authority to disapprove that 26509  
provision. Alternatively, the Ohio building authority may elect to 26510  
provide those services for Ohio cultural facilities financed with 26511  
proceeds of state bonds issued by the authority. The costs of 26512  
management and general building services shall be paid by the 26513  
cultural organization that occupies, will occupy, or is 26514  
responsible for the facility as provided in an agreement between 26515  
the Ohio cultural facilities commission and the cultural 26516  
organization, except that the state may pay for general building 26517  
services for state-owned cultural facilities constructed on 26518  
state-owned land. 26519

General building services for an Ohio sports facility shall 26520  
be provided by or at the direction of the governmental agency or 26521  
nonprofit corporation that will be responsible for the management 26522  
of the facility, all as determined by the Ohio cultural facilities 26523  
commission. For a facility receiving a state appropriation of 26524  
fifty thousand dollars or less, the Ohio cultural facilities 26525  
commission may delegate to its executive director the authority to 26526

approve the provision of general building services by or at the 26527  
direction of the agency or corporation, but not the authority to 26528  
disapprove that provision. Any general building services to be 26529  
provided by a governmental agency or nonprofit corporation for an 26530  
Ohio sports facility shall be specified in an agreement between 26531  
the Ohio cultural facilities commission and the governmental 26532  
agency or nonprofit corporation. That agreement, and any actions 26533  
taken under it, are not subject to Chapter 123. or 153. of the 26534  
Revised Code, except for sections 123.081 and 153.011 of the 26535  
Revised Code, and shall be subject to Chapter 4115. of the Revised 26536  
Code. 26537

(D) This division does not apply to a state historical 26538  
facility. No state funds, including any state bond proceeds, shall 26539  
be spent on the construction of any cultural project under this 26540  
chapter unless, with respect to the cultural project and to the 26541  
Ohio cultural facility related to the project, all of the 26542  
following apply: 26543

(1) The Ohio cultural facilities commission has determined 26544  
that there is a need for the cultural project and the Ohio 26545  
cultural facility related to the project in the region of the 26546  
state in which the Ohio cultural facility is located or for which 26547  
the facility is proposed. For a project receiving a state 26548  
appropriation of fifty thousand dollars or less, the Ohio cultural 26549  
facilities commission may delegate to its executive director the 26550  
authority to determine need but only in the affirmative. 26551

(2) The Ohio cultural facilities commission has determined 26552  
that, as an indication of substantial regional support for the 26553  
cultural project, the cultural organization has made provision 26554  
satisfactory to the Ohio cultural facilities commission, in its 26555  
sole discretion, for local contributions amounting to not less 26556  
than fifty per cent of the total state funding for the cultural 26557  
project. For a project receiving a state appropriation of fifty 26558

thousand dollars or less, the Ohio cultural facilities commission 26559  
may delegate to its executive director the authority to determine 26560  
the adequacy of the regional support but only in the affirmative. 26561

(3) The general assembly has specifically authorized the 26562  
spending of money on, or made an appropriation for, the 26563  
construction of the cultural project, or for rental payments 26564  
relating to the financing of the construction of the cultural 26565  
project. Authorization to spend money, or an appropriation, for 26566  
planning the cultural project does not constitute authorization to 26567  
spend money on, or an appropriation for, construction of the 26568  
cultural project. 26569

(E) No state funds, including any state bond proceeds, shall 26570  
be spent on the construction of any state historical facility 26571  
under this chapter unless the general assembly has specifically 26572  
authorized the spending of money on, or made an appropriation for, 26573  
the construction of the state historical project related to the 26574  
facility, or for rental payments relating to the financing of the 26575  
construction of the state historical project. Authorization to 26576  
spend money, or an appropriation, for planning the state 26577  
historical project does not constitute authorization to spend 26578  
money on, or an appropriation for, the construction of the state 26579  
historical project. 26580

(F) State funds shall not be used to pay or reimburse more 26581  
than fifteen per cent of the initial estimated construction cost 26582  
of an Ohio sports facility, excluding any site acquisition cost, 26583  
and no state funds, including any state bond proceeds, shall be 26584  
spent on any Ohio sports facility under this chapter unless, with 26585  
respect to that facility, all of the following apply: 26586

(1) The Ohio cultural facilities commission has determined 26587  
that there is a need for the facility in the region of the state 26588  
for which the facility is proposed to provide the function of an 26589  
Ohio sports facility as provided for in this chapter. For a 26590

facility receiving a state appropriation of fifty thousand dollars 26591  
or less, the Ohio cultural facilities commission may delegate to 26592  
its executive director the authority to determine need but only in 26593  
the affirmative. 26594

(2) As an indication of substantial local support for the 26595  
facility, the Ohio cultural facilities commission has received a 26596  
financial and development plan satisfactory to it, and provision 26597  
has been made, by agreement or otherwise, satisfactory to the Ohio 26598  
cultural facilities commission, for a contribution amounting to 26599  
not less than eighty-five per cent of the total estimated 26600  
construction cost of the facility, excluding any site acquisition 26601  
cost, from sources other than the state. For a facility receiving 26602  
a state appropriation of fifty thousand dollars or less, the Ohio 26603  
cultural facilities commission may delegate to its executive 26604  
director the authority to evaluate the financial and development 26605  
plan and the contribution and to determine their adequacy but only 26606  
in the affirmative. 26607

(3) The general assembly has specifically authorized the 26608  
spending of money on, or made an appropriation for, the 26609  
construction of the facility, or for rental payments relating to 26610  
state financing of all or a portion of the costs of constructing 26611  
the facility. Authorization to spend money, or an appropriation, 26612  
for planning or determining the feasibility of or need for the 26613  
facility does not constitute authorization to spend money on, or 26614  
an appropriation for, costs of constructing the facility. 26615

(4) If state bond proceeds are being used for the Ohio sports 26616  
facility, the state or a governmental agency owns or has 26617  
sufficient property interests in the facility or in the site of 26618  
the facility or in the portion or portions of the facility 26619  
financed from proceeds of state bonds, which may include, but is 26620  
not limited to, the right to use or to require the use of the 26621  
facility for the presentation of sport and athletic events to the 26622

public at the facility. 26623

(G) In addition to the requirements of division (F) of this 26624  
section, no state funds, including any state bond proceeds, shall 26625  
be spent on any Ohio sports facility that is a motorsports 26626  
complex, unless, with respect to that facility, both of the 26627  
following apply: 26628

(1) Motorsports events shall be presented at the facility 26629  
pursuant to a lease entered into with the owner of the facility. 26630  
The term of the lease shall be for a period of not less than the 26631  
greater of the useful life of the portion of the facility financed 26632  
from proceeds of state bonds as determined using the guidelines 26633  
for maximum maturities as provided under divisions (B) and (C) of 26634  
section 133.20 of the Revised Code, or the period of time 26635  
remaining to the date of payment or provision for payment of 26636  
outstanding state bonds allocable to costs of the facility, all as 26637  
determined by the director of budget and management and certified 26638  
by the director to the Ohio cultural facilities commission and to 26639  
the treasurer of state. 26640

(2) Any motorsports organization that commits to using the 26641  
facility for an established period of time shall give the 26642  
political subdivision in which the facility is located not less 26643  
than six months' advance notice if the organization intends to 26644  
cease utilizing the facility prior to the expiration of that 26645  
established period. Such a motorsports organization shall be 26646  
liable to the state for any state funds used on the construction 26647  
costs of the facility. 26648

(H) In addition to the requirements of division (F) of this 26649  
section, no state bond proceeds shall be spent on any Ohio sports 26650  
facility that is a tennis facility, unless the owner or manager of 26651  
the facility provides contractual commitments from a national or 26652  
international professional tennis organization in a form 26653  
acceptable to the cultural facilities commission that assures that 26654

one or more sanctioned professional tennis events will be 26655  
presented at the facility during each year that the bonds remain 26656  
outstanding. 26657

**Sec. 3517.20.** (A)(1) As used in this section: 26658

(a) "Political publication for or against a candidate" means 26659  
a notice, placard, advertisement, sample ballot, brochure, flyer, 26660  
direct mailer, or other form of general publication that is 26661  
designed to promote the nomination, election, or defeat of a 26662  
candidate. 26663

(b) "Political publication for or against an issue" means a 26664  
notice, placard, advertisement, sample ballot, brochure, flyer, 26665  
direct mailer, or other form of general publication that is 26666  
designed to promote the adoption or defeat of a ballot issue or 26667  
question or to influence the voters in an election. 26668

(c) "Public political advertising" means newspapers, 26669  
magazines, outdoor advertising facilities, direct mailings, or 26670  
other similar types of general public political advertising, or 26671  
flyers, handbills, or other nonperiodical printed matter. 26672

(d) "Statewide candidate" has the same meaning as in section 26673  
3517.102 of the Revised Code. 26674

(e) "Legislative candidate" means a candidate for the office 26675  
of member of the general assembly. 26676

(f) "Local candidate" means a candidate for an elective 26677  
office of a political subdivision of this state. 26678

(g) "Legislative campaign fund" has the same meaning as in 26679  
section 3517.01 of the Revised Code. 26680

(h) "Limited political action committee" means a political 26681  
action committee of fewer than ten members. 26682

(i) "Limited political contributing entity" means a political 26683

contributing entity of fewer than ten members. 26684

(j) "Designated amount" means one hundred dollars in the case 26685  
of a local candidate or a local ballot issue, two hundred fifty 26686  
dollars in the case of a legislative candidate, or five hundred 26687  
dollars in the case of a statewide candidate or a statewide ballot 26688  
issue. 26689

(k) "To issue" includes to print, post, distribute, reproduce 26690  
for distribution, or cause to be issued, printed, posted, 26691  
distributed, or reproduced for distribution. 26692

(l) "Telephone bank" means more than five hundred telephone 26693  
calls of an identical or substantially similar nature within any 26694  
thirty-day period, whether those telephone calls are made by 26695  
individual callers or by recording. 26696

(2)(a) No candidate, ~~campaign committee~~, legislative campaign 26697  
fund, political party, or other entity, except a political action 26698  
committee ~~or, a political contributing entity, or a campaign~~ 26699  
committee, shall issue a form of political publication for or 26700  
against a candidate, or shall make an expenditure for the purpose 26701  
of financing political communications in support of or opposition 26702  
to a candidate through public political advertising, unless the 26703  
name and residence or business address of the candidate or the 26704  
chairperson, treasurer, or secretary of the ~~campaign committee~~, 26705  
legislative campaign fund, political party, or other entity that 26706  
issues or otherwise is responsible for that political publication 26707  
or that makes an expenditure for that political communication 26708  
appears in a conspicuous place on that political publication or is 26709  
contained within that political communication. 26710

(b) No campaign committee shall issue a form of political 26711  
publication for or against a candidate, or shall make an 26712  
expenditure for the purpose of financing political communications 26713  
in support of or opposition to a candidate through public 26714

political advertising, unless the name of the campaign committee 26715  
appears in a conspicuous place on that political publication or is 26716  
contained within that political communication. 26717

(3) No limited political action committee or limited 26718  
political contributing entity shall do either of the following 26719  
unless the name and residence or business address of the 26720  
chairperson, treasurer, or secretary of the limited political 26721  
action committee or limited political contributing entity involved 26722  
appears in a conspicuous place in the political publication for or 26723  
against a candidate described in division (A)(3)(a) of this 26724  
section or is contained within the political communication 26725  
described in division (A)(3)(b) of this section: 26726

(a) Issue a form of political publication for or against a 26727  
candidate that costs in excess of the designated amount or that is 26728  
issued in cooperation, consultation, or concert with, or at the 26729  
request or suggestion of, a candidate, a campaign committee, a 26730  
legislative campaign fund, a political party, a political action 26731  
committee with ten or more members, a political contributing 26732  
entity with ten or more members, or a limited political action 26733  
committee or limited political contributing entity that spends in 26734  
excess of the designated amount on a related or the same or 26735  
similar political publication for or against a candidate; 26736

(b) Make an expenditure in excess of the designated amount in 26737  
support of or opposition to a candidate or make an expenditure in 26738  
cooperation, consultation, or concert with, or at the request or 26739  
suggestion of, a candidate, a campaign committee, a legislative 26740  
campaign fund, a political party, a political action committee 26741  
with ten or more members, a political contributing entity with ten 26742  
or more members, or a limited political action committee or 26743  
limited political contributing entity that spends in excess of the 26744  
designated amount in support of or opposition to the same 26745  
candidate, for the purpose of financing political communications 26746

in support of or opposition to that candidate through public 26747  
political advertising. 26748

(4) No political action committee with ten or more members 26749  
and no political contributing entity with ten or more members 26750  
shall issue a form of political publication for or against a 26751  
candidate, or shall make an expenditure for the purpose of 26752  
financing political communications in support of or opposition to 26753  
a candidate through public political advertising, unless the name 26754  
and residence or business address of the chairperson, treasurer, 26755  
or secretary of the political action committee or political 26756  
contributing entity that issues or otherwise is responsible for 26757  
that political publication or that makes an expenditure for that 26758  
political communication through public political advertising 26759  
appears in a conspicuous place in that political publication or is 26760  
contained within that political communication. 26761

(5)(a) No corporation, labor organization, ~~campaign~~ 26762  
~~committee~~, legislative campaign fund, political party, or other 26763  
entity, except a political action committee or a campaign 26764  
committee, shall issue a form of political publication for or 26765  
against an issue, or shall make an expenditure for the purpose of 26766  
financing political communications in support of or opposition to 26767  
a ballot issue or question through public political advertising, 26768  
unless the name and residence or business address of the 26769  
chairperson, treasurer, or secretary of the corporation, labor 26770  
organization, ~~campaign committee~~, legislative campaign fund, 26771  
political party, or other entity that issues or otherwise is 26772  
responsible for that political publication or that makes an 26773  
expenditure for that political communication through public 26774  
political advertising appears in a conspicuous place in that 26775  
political publication or is contained within that political 26776  
communication. 26777

(b) No campaign committee shall issue a form of political 26778

publication for or against an issue, or shall make an expenditure 26779  
for the purpose of financing political communications in support 26780  
of or opposition to a ballot issue or question through public 26781  
political advertising, unless the name of the campaign committee 26782  
appears in a conspicuous place in that political publication or is 26783  
contained within that political communication. 26784

(6) No limited political action committee shall do either of 26785  
the following unless the name and residence or business address of 26786  
the chairperson, treasurer, or secretary of the limited political 26787  
action committee involved appears in a conspicuous place in the 26788  
political publication for or against a ballot issue described in 26789  
division (A)(6)(a) of this section or is contained within the 26790  
political communication described in division (A)(6)(b) of this 26791  
section: 26792

(a) Issue a form of political publication for or against a 26793  
ballot issue that costs in excess of the designated amount or that 26794  
is issued in cooperation, consultation, or concert with, or at the 26795  
request or suggestion of, a candidate, a campaign committee, a 26796  
legislative campaign fund, a political party, a political action 26797  
committee with ten or more members, or a limited political action 26798  
committee that spends in excess of the designated amount for a 26799  
related or the same or similar political publication for or 26800  
against an issue; 26801

(b) Make an expenditure in excess of the designated amount in 26802  
support of or opposition to a ballot issue or make an expenditure 26803  
in cooperation, consultation, or concert with, or at the request 26804  
or suggestion of, a candidate, a campaign committee, a legislative 26805  
campaign fund, a political party, a political action committee 26806  
with ten or more members, or a limited political action committee 26807  
that spends in excess of the designated amount in support of or 26808  
opposition to the same ballot issue, for the purpose of financing 26809  
political communications in support of or opposition to that 26810

ballot issue through public political advertising. 26811

(7) No political action committee with ten or more members 26812  
shall issue a form of political publication for or against an 26813  
issue, or shall make an expenditure for the purpose of financing 26814  
political communications in support of or opposition to a ballot 26815  
issue or question through public political advertising, unless the 26816  
name and residence or business address of the chairperson, 26817  
treasurer, or secretary of the political action committee that 26818  
issues or otherwise is responsible for that political publication 26819  
or that makes an expenditure for that political communication 26820  
appears in a conspicuous place in that political publication or is 26821  
contained within that political communication. 26822

(8) The disclaimer "paid political advertisement" is not 26823  
sufficient to meet the requirements of this section. 26824

(9) If the political publication described in division (A) of 26825  
this section is issued by the regularly constituted central or 26826  
executive committee of a political party that is organized as 26827  
provided in this chapter, it shall be sufficiently identified if 26828  
it bears the name of the committee and its chairperson or 26829  
treasurer. 26830

(10) If more than one piece of printed matter or printed 26831  
political communications are mailed as a single packet, the 26832  
requirements of division (A) of this section are met if one of the 26833  
pieces of printed matter or printed political communications in 26834  
the packet contains the name and residence or business address of 26835  
the chairperson, treasurer, or secretary of the organization or 26836  
entity that issues or is responsible for the printed matter or 26837  
other printed political communications, except that if a campaign 26838  
committee mails more than one piece of printed matter or printed 26839  
political communications as a single packet, the requirements of 26840  
division (A) of this section are met if one of the pieces of 26841  
printed matter or printed political communications in the packet 26842

contains the name of the campaign committee. 26843

(11) This section does not apply to the transmittal of 26844  
personal correspondence that is not reproduced by machine for 26845  
general distribution. 26846

(12) The secretary of state, by rule, may exempt from the 26847  
requirements of this section, printed matter and certain other 26848  
kinds of printed communications such as campaign buttons, 26849  
balloons, pencils, or similar items, the size or nature of which 26850  
makes it unreasonable to add an identification or disclaimer. 26851

(13) The disclaimer or identification described in division 26852  
(A) of this section, when paid for by a campaign committee, shall 26853  
be identified by the words "paid for by" followed by the name ~~and~~ 26854  
~~address~~ of the campaign committee and the appropriate officer of 26855  
the committee, identified by name and title. The identification or 26856  
disclaimer may use reasonable abbreviations for common terms such 26857  
as "treasurer" or "committee". 26858

(B)(1) No candidate, campaign committee, legislative campaign 26859  
fund, political party, political action committee, limited 26860  
political action committee, political contributing entity, limited 26861  
political contributing entity, or other entity shall utter or 26862  
cause to be uttered, over the broadcasting facilities of any radio 26863  
or television station within this state, any communication that is 26864  
designed to promote the nomination, election, or defeat of a 26865  
candidate, or the adoption or defeat of an issue or to influence 26866  
the voters in an election, unless the speaker identifies the 26867  
speaker with the speaker's name and residence address or unless 26868  
the communication identifies the chairperson, treasurer, or 26869  
secretary of the organization responsible for the communication 26870  
with the name and residence or business address of that officer, 26871  
except that communications by radio need not broadcast the 26872  
residence or business address of the officer. However, a radio 26873  
station, for a period of at least six months, shall keep the 26874

residence or business address on file and divulge it to any person 26875  
upon request. 26876

No person operating a broadcast station or an organ of 26877  
printed media shall broadcast or print a paid political 26878  
communication that does not contain the identification required by 26879  
this section. 26880

(2) Division (B) of this section does not apply to any 26881  
communications made on behalf of a radio or television station or 26882  
network by any employee of such radio or television station or 26883  
network while acting in the course of the employee's employment. 26884

(3) No candidate or entity described in division (B)(1) of 26885  
this section shall use or cause to be used a false, fictitious, or 26886  
fraudulent name or address in the making or issuing of a 26887  
publication or communication included within the provisions of 26888  
this section. 26889

(C) No candidate, campaign committee, legislative campaign 26890  
fund, political party, political action committee, limited 26891  
political action committee, political contributing entity, limited 26892  
political contributing entity, or other person or entity shall 26893  
conduct a telephone bank for the purpose of promoting the 26894  
nomination, election, or defeat of a candidate or the adoption or 26895  
defeat of an issue or to influence the voters in an election, 26896  
unless the call includes a disclaimer that identifies the name of 26897  
the candidate, campaign committee, legislative campaign fund, 26898  
political party, political action committee, limited political 26899  
action committee, political contributing entity, limited political 26900  
contributing entity, or other person or entity paying for the 26901  
telephone bank. 26902

(D) Before a prosecution may commence under this section, a 26903  
complaint shall be filed with the Ohio elections commission under 26904  
section 3517.153 of the Revised Code. After the complaint is 26905

filed, the commission shall proceed in accordance with sections 26906  
3517.154 to 3517.157 of the Revised Code. 26907

**Sec. 3701.021.** (A) The ~~public director of health council~~ 26908  
shall adopt, in accordance with Chapter 119. of the Revised Code, 26909  
such rules as are necessary to carry out sections 3701.021 to 26910  
3701.0210 of the Revised Code, including, but not limited to, 26911  
rules to establish the following: 26912

(1) Medical and financial eligibility requirements for the 26913  
program for medically handicapped children; 26914

(2) Eligibility requirements for providers of services for 26915  
medically handicapped children; 26916

(3) Procedures to be followed by the department of health in 26917  
disqualifying providers for violating requirements adopted under 26918  
division (A)(2) of this section; 26919

(4) Procedures to be used by the department regarding 26920  
application for diagnostic services under division (B) of section 26921  
3701.023 of the Revised Code and payment for those services under 26922  
division (E) of that section; 26923

(5) Standards for the provision of service coordination by 26924  
the department of health and city and general health districts; 26925

(6) Procedures for the department to use to determine the 26926  
amount to be paid annually by each county for services for 26927  
medically handicapped children and to allow counties to retain 26928  
funds under divisions (A)(2) and (3) of section 3701.024 of the 26929  
Revised Code; 26930

(7) Financial eligibility requirements for services for Ohio 26931  
residents twenty-one years of age or older who have cystic 26932  
fibrosis; 26933

(8) Criteria for payment of approved providers who provide 26934  
services for medically handicapped children; 26935

|   |  |
|---|--|
| (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;   | 26936<br>26937<br>26938  |
| (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;  | 26939<br>26940<br>26941  |
| (11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;   | 26942<br>26943<br>26944  |
| (12) Eligibility requirements for the hemophilia program, including income and hardship requirements;   | 26945<br>26946   |
| (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.  | 26947<br>26948<br>26949<br>26950<br>26951  |
| (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.  | 26952<br>26953<br>26954<br>26955   |
| <b>Sec. 3701.023.</b> (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the <u>public director of health council</u> pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for | 26956<br>26957<br>26958<br>26959<br>26960<br>26961<br>26962<br>26963<br>26964<br>26965 |

medically handicapped children developed pursuant to division (B) 26966  
of that section. Referrals of potentially eligible children for 26967  
the program may be submitted to the department on behalf of the 26968  
child by parents, guardians, public health nurses, or any other 26969  
interested person. The department of health may designate other 26970  
agencies to refer applicants to the department of health. 26971

(B) In accordance with the procedures established in rules 26972  
adopted under division (A)(4) of section 3701.021 of the Revised 26973  
Code, the department of health shall authorize a provider or 26974  
providers to provide to any Ohio resident under twenty-one years 26975  
of age, without charge to the resident or the resident's family 26976  
and without restriction as to the economic status of the resident 26977  
or the resident's family, diagnostic services necessary to 26978  
determine whether the resident has a medically handicapping or 26979  
potentially medically handicapping condition. 26980

(C) The department of health shall review the applications of 26981  
health professionals, hospitals, medical equipment suppliers, and 26982  
other individuals, groups, or agencies that apply to become 26983  
providers. The department shall enter into a written agreement 26984  
with each applicant who is determined, pursuant to the 26985  
requirements set forth in rules adopted under division (A)(2) of 26986  
section 3701.021 of the Revised Code, to be eligible to be a 26987  
provider in accordance with the provider agreement required by the 26988  
medical assistance program established under section 5111.01 of 26989  
the Revised Code. No provider shall charge a medically handicapped 26990  
child or the child's parent or guardian for services authorized by 26991  
the department under division (B) or (D) of this section. 26992

The department, in accordance with rules adopted under 26993  
division (A)(3) of section 3701.021 of the Revised Code, may 26994  
disqualify any provider from further participation in the program 26995  
for violating any requirement set forth in rules adopted under 26996  
division (A)(2) of that section. The disqualification shall not 26997

take effect until a written notice, specifying the requirement 26998  
violated and describing the nature of the violation, has been 26999  
delivered to the provider and the department has afforded the 27000  
provider an opportunity to appeal the disqualification under 27001  
division (H) of this section. 27002

(D) The department of health shall evaluate applications from 27003  
city and general health districts and approved physician providers 27004  
for authorization to provide treatment services, service 27005  
coordination, and related goods to children determined to be 27006  
eligible for the program for medically handicapped children 27007  
pursuant to division (A) of this section. The department shall 27008  
authorize necessary treatment services, service coordination, and 27009  
related goods for each eligible child in accordance with an 27010  
individual plan of treatment for the child. As an alternative, the 27011  
department may authorize payment of health insurance premiums on 27012  
behalf of eligible children when the department determines, in 27013  
accordance with criteria set forth in rules adopted under division 27014  
(A)(9) of section 3701.021 of the Revised Code, that payment of 27015  
the premiums is cost-effective. 27016

(E) The department of health shall pay, from appropriations 27017  
to the department, any necessary expenses, including but not 27018  
limited to, expenses for diagnosis, treatment, service 27019  
coordination, supportive services, transportation, and accessories 27020  
and their upkeep, provided to medically handicapped children, 27021  
provided that the provision of the goods or services is authorized 27022  
by the department under division (B) or (D) of this section. Money 27023  
appropriated to the department of health may also be expended for 27024  
reasonable administrative costs incurred by the program. The 27025  
department of health also may purchase liability insurance 27026  
covering the provision of services under the program for medically 27027  
handicapped children by physicians and other health care 27028  
professionals. 27029

Payments made to providers by the department of health 27030  
pursuant to this division for inpatient hospital care, outpatient 27031  
care, and all other medical assistance furnished to eligible 27032  
recipients shall be made in accordance with rules adopted by the 27033  
~~public director of health council~~ pursuant to division (A) of 27034  
section 3701.021 of the Revised Code. 27035

The departments of health and job and family services shall 27036  
jointly implement procedures to ensure that duplicate payments are 27037  
not made under the program for medically handicapped children and 27038  
the medical assistance program established under section 5111.01 27039  
of the Revised Code and to identify and recover duplicate 27040  
payments. 27041

(F) At the time of applying for participation in the program 27042  
for medically handicapped children, a medically handicapped child 27043  
or the child's parent or guardian shall disclose the identity of 27044  
any third party against whom the child or the child's parent or 27045  
guardian has or may have a right of recovery for goods and 27046  
services provided under division (B) or (D) of this section. The 27047  
department of health shall require a medically handicapped child 27048  
who receives services from the program or the child's parent or 27049  
guardian to apply for all third-party benefits for which the child 27050  
may be eligible and require the child, parent, or guardian to 27051  
apply all third-party benefits received to the amount determined 27052  
under division (E) of this section as the amount payable for goods 27053  
and services authorized under division (B) or (D) of this section. 27054  
The department is the payer of last resort and shall pay for 27055  
authorized goods or services, up to the amount determined under 27056  
division (E) of this section for the authorized goods or services, 27057  
only to the extent that payment for the authorized goods or 27058  
services is not made through third-party benefits. When a third 27059  
party fails to act on an application or claim for benefits by a 27060  
medically handicapped child or the child's parent or guardian, the 27061

department shall pay for the goods or services only after ninety 27062  
days have elapsed since the date the child, parents, or guardians 27063  
made an application or claim for all third-party benefits. 27064  
Third-party benefits received shall be applied to the amount 27065  
determined under division (E) of this section. Third-party 27066  
payments for goods and services not authorized under division (B) 27067  
or (D) of this section shall not be applied to payment amounts 27068  
determined under division (E) of this section. Payment made by the 27069  
department shall be considered payment in full of the amount 27070  
determined under division (E) of this section. Medicaid payments 27071  
for persons eligible for the medical assistance program 27072  
established under section 5111.01 of the Revised Code shall be 27073  
considered payment in full of the amount determined under division 27074  
(E) of this section. 27075

(G) The department of health shall administer a program to 27076  
provide services to Ohio residents who are twenty-one or more 27077  
years of age who have cystic fibrosis and who meet the eligibility 27078  
requirements established ~~by the~~ in rules ~~of~~ adopted by the ~~public~~ 27079  
director of health council pursuant to division (A)(7) of section 27080  
3701.021 of the Revised Code, subject to all provisions of this 27081  
section, but not subject to section 3701.024 of the Revised Code. 27082

(H) The department of health shall provide for appeals, in 27083  
accordance with rules adopted under section 3701.021 of the 27084  
Revised Code, of denials of applications for the program for 27085  
medically handicapped children under division (A) or (D) of this 27086  
section, disqualification of providers, or amounts paid under 27087  
division (E) of this section. Appeals under this division are not 27088  
subject to Chapter 119. of the Revised Code. 27089

The department may designate ombudspersons to assist 27090  
medically handicapped children or their parents or guardians, upon 27091  
the request of the children, parents, or guardians, in filing 27092  
appeals under this division and to serve as children's, parents', 27093

or guardians' advocates in matters pertaining to the 27094  
administration of the program for medically handicapped children 27095  
and eligibility for program services. The ombudspersons shall 27096  
receive no compensation but shall be reimbursed by the department, 27097  
in accordance with rules of the office of budget and management, 27098  
for their actual and necessary travel expenses incurred in the 27099  
performance of their duties. 27100

(I) The department of health, and city and general health 27101  
districts providing service coordination pursuant to division 27102  
(A)(2) of section 3701.024 of the Revised Code, shall provide 27103  
service coordination in accordance with the standards set forth in 27104  
the rules adopted under section 3701.021 of the Revised Code, 27105  
without charge, and without restriction as to economic status. 27106

(J)(1) The department of health may establish a manufacturer 27107  
discount program under which a manufacturer of a drug or 27108  
nutritional formula is permitted to enter into an agreement with 27109  
the department to provide a discount on the price of the drug or 27110  
nutritional formula distributed to medically handicapped children 27111  
participating in the program for medically handicapped children. 27112  
The program shall be administered in accordance with rules adopted 27113  
under section 3701.021 of the Revised Code. 27114

(2) If a manufacturer enters into an agreement with the 27115  
department as described in division (J)(1) of this section, the 27116  
manufacturer and the department may negotiate the amount and terms 27117  
of the discount. 27118

(3) In lieu of establishing a discount program as described 27119  
in division (J)(1) of this section, the department and a 27120  
manufacturer of a drug or nutritional formula may discuss a 27121  
donation of drugs, nutritional formulas, or money by the 27122  
manufacturer to the department. 27123

**Sec. 3701.024.** (A)(1) Under a procedure established in rules 27124

adopted under section 3701.021 of the Revised Code, the department 27125  
of health shall determine the amount each county shall provide 27126  
annually for the program for medically handicapped children, based 27127  
on a proportion of the county's total general property tax 27128  
duplicate, not to exceed one-tenth of a mill, and charge the 27129  
county for any part of expenses incurred under the program for 27130  
treatment services on behalf of medically handicapped children 27131  
having legal settlement in the county that is not paid from 27132  
federal funds or through the medical assistance program 27133  
established under section 5111.01 of the Revised Code. The 27134  
department shall not charge the county for expenses exceeding the 27135  
difference between the amount determined under division (A)(1) of 27136  
this section and any amounts retained under divisions (A)(2) and 27137  
(3) of this section. 27138

All amounts collected by the department under division (A)(1) 27139  
of this section shall be deposited into the state treasury to the 27140  
credit of the medically handicapped children-county assessment 27141  
fund, which is hereby created. The fund shall be used by the 27142  
department to comply with sections 3701.021 to 3701.028 of the 27143  
Revised Code. 27144

(2) The department, in accordance with rules adopted under 27145  
section 3701.021 of the Revised Code, may allow each county to 27146  
retain up to ten per cent of the amount determined under division 27147  
(A)(1) of this section to provide funds to city or general health 27148  
districts of the county with which the districts shall provide 27149  
service coordination, public health nursing, or transportation 27150  
services for medically handicapped children. 27151

(3) In addition to any amount retained under division (A)(2) 27152  
of this section, the department, in accordance with rules adopted 27153  
under section 3701.021 of the Revised Code, may allow counties 27154  
that it determines have significant numbers of potentially 27155  
eligible medically handicapped children to retain an amount equal 27156

to the difference between: 27157

(a) Twenty-five per cent of the amount determined under 27158  
division (A)(1) of this section; 27159

(b) Any amount retained under division (A)(2) of this 27160  
section. 27161

Counties shall use amounts retained under division (A)(3) of 27162  
this section to provide funds to city or general health districts 27163  
of the county with which the districts shall conduct outreach 27164  
activities to increase participation in the program for medically 27165  
handicapped children. 27166

(4) Prior to any increase in the millage charged to a county, 27167  
the ~~public director of health council~~ shall hold a public hearing 27168  
on the proposed increase and shall give notice of the hearing to 27169  
each board of county commissioners that would be affected by the 27170  
increase at least thirty days prior to the date set for the 27171  
hearing. Any county commissioner may appear and give testimony at 27172  
the hearing. Any increase in the millage any county is required to 27173  
provide for the program for medically handicapped children shall 27174  
be determined, and notice of the amount of the increase shall be 27175  
provided to each affected board of county commissioners, no later 27176  
than the first day of June of the fiscal year next preceding the 27177  
fiscal year in which the increase will take effect. 27178

(B) Each board of county commissioners shall establish a 27179  
medically handicapped children's fund and shall appropriate 27180  
thereto an amount, determined in accordance with division (A)(1) 27181  
of this section, for the county's share in providing medical, 27182  
surgical, and other aid to medically handicapped children residing 27183  
in such county and for the purposes specified in divisions (A)(2) 27184  
and (3) of this section. Each county shall use money retained 27185  
under divisions (A)(2) and (3) of this section only for the 27186  
purposes specified in those divisions. 27187

**Sec. 3701.025.** There is hereby created the medically 27188  
handicapped children's medical advisory council consisting of 27189  
twenty-one members to be appointed by the director of health for 27190  
terms set in accordance with rules adopted by the ~~public health~~ 27191  
~~council~~ director under division (A)(11) of section 3701.021 of the 27192  
Revised Code. The medically handicapped children's medical 27193  
advisory council shall advise the director regarding the 27194  
administration of the program for medically handicapped children, 27195  
the suitable quality of medical practice for providers, and the 27196  
requirements for medical eligibility for the program. 27197

All members of the council shall be licensed physicians, 27198  
surgeons, dentists, and other professionals in the field of 27199  
medicine, representative of the various disciplines involved in 27200  
the treatment of children with medically handicapping conditions, 27201  
and representative of the treatment facilities involved, such as 27202  
hospitals, private and public health clinics, and private 27203  
physicians' offices, and shall be eligible for the program. 27204

Members of the council shall receive no compensation, but 27205  
shall receive their actual and necessary travel expenses incurred 27206  
in the performance of their official duties in accordance with the 27207  
rules of the office of budget and management. 27208

**Sec. 3701.03.** (A) The director of health shall perform duties 27209  
that are incident to the director's position as chief executive 27210  
officer of the department of health. The director shall administer 27211  
the laws relating to health and sanitation and the rules of the 27212  
department of health. The director may designate employees of the 27213  
department and, during a public health emergency, other persons to 27214  
administer the laws and rules on the director's behalf. 27215

(B) Nothing in this section authorizes any action that 27216  
27217

prevents the fulfillment of duties or impairs the exercise of 27218  
authority established by law for any other person or entity. 27219

~~(C) The director shall prepare sanitary and public health 27220  
rules for consideration by the public health council and submit to 27221  
the council recommendations for new legislation. The director 27222  
shall sit at meetings of the council but shall have no vote. 27223~~

**Sec. 3701.05.** The director of health shall keep ~~the public~~ 27224  
~~health council,~~ health officials, and the general public fully 27225  
informed in a printed annual report in regard to the work of the 27226  
department of health and on the progress that is being made in 27227  
studying the cause and prevention of disease and such kindred 27228  
subjects as may contribute to the welfare of the people of the 27229  
state. 27230

**Sec. 3701.07.** (A) The ~~public~~ director of health council shall 27231  
adopt rules in accordance with Chapter 119. of the Revised Code 27232  
defining and classifying hospitals and dispensaries and providing 27233  
for the reporting of information by hospitals and dispensaries. 27234  
Except as otherwise provided in the Revised Code, the rules 27235  
providing for the reporting of information shall not require 27236  
inclusion of any confidential patient data or any information 27237  
concerning the financial condition, income, expenses, or net worth 27238  
of the facilities other than that financial information already 27239  
contained in those portions of the medicare or medicaid cost 27240  
report that is necessary for the department of health to certify 27241  
the per diem cost under section 3701.62 of the Revised Code. The 27242  
rules may require the reporting of information in the following 27243  
categories: 27244

(1) Information needed to identify and classify the 27245  
institution; 27246

(2) Information on facilities and type and volume of services 27247

|  |   |
|--|---|
| provided by the institution;   | 27248   |
| (3) The number of beds listed by category of care provided;  | 27249   |
| (4) The number of licensed or certified professional employees by classification;  | 27250<br>27251  |
| (5) The number of births that occurred at the institution the previous calendar year;  | 27252<br>27253  |
| (6) Any other information that the <del>council</del> <u>director</u> considers relevant to the safety of patients served by the institution.  | 27254<br>27255  |
| Every hospital and dispensary, public or private, annually shall register with and report to the department of health. Reports shall be submitted in the manner prescribed in rules adopted under this division.   | 27256<br>27257<br>27258<br>27259                            |
| (B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe. | 27260<br>27261<br>27262<br>27263<br>27264<br>27265<br>27266 |
| The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code <del>and to adult care facility managers as defined in section 5119.70 of the Revised Code.</del>    | 27267<br>27268<br>27269<br>27270<br>27271<br>27272<br>27273 |
| <b>Sec. 3701.072.</b> (A) As used in this chapter:   | 27274   |
| (1) "Bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.  | 27275<br>27276  |

(2) "Surveillance" in the public health service means the systematic collection, analysis, interpretation, and dissemination of health data on an ongoing basis, to gain knowledge of the pattern of disease occurrence and potential in a community in order to control and prevent disease in the community.

(3) "Trauma center" has the same meaning as in section 4765.01 of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code that require a trauma center to report information to the director of health describing the trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. The ~~council's~~ director's rules may require the reporting of any information the ~~council~~ director considers necessary for an accurate description of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. Information reported pursuant to this division is not a public record under section 149.43 of the Revised Code.

(C) Upon request, the department of health shall provide a summary report of the ~~public health council's~~ rules adopted pursuant to this section.

(D) The director shall review all information received pursuant to this section. After reviewing the information, the director may conduct an evaluation of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. An evaluation conducted pursuant to this division is not a public record under section 149.43 of the Revised Code.

**Sec. 3701.11.** The director of health ~~and the secretary of the public health council~~ shall have power to administer oaths in all parts of the state so far as the exercise of such power is

incidental to the performance of the duties of the director ~~or of~~ 27308  
~~the council.~~ 27309

**Sec. 3701.132.** The department of health is hereby designated 27310  
as the state agency to administer the "special supplemental 27311  
nutrition program for women, infants, and children" established 27312  
under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 27313  
1786, as amended. The ~~public director of health council~~ may adopt 27314  
rules pursuant to Chapter 119. of the Revised Code as necessary 27315  
for administering the program. The rules may include civil money 27316  
penalties for violations of the rules. 27317

In determining eligibility for services provided under the 27318  
program, the department may use the application form established 27319  
under section 5111.013 of the Revised Code for the healthy start 27320  
program. The department may require applicants to furnish their 27321  
social security numbers. 27322

If the department determines that a vendor has committed an 27323  
act with respect to the program that federal statutes or 27324  
regulations or state statutes or rules prohibit, the department 27325  
shall take action against the vendor in the manner required by 7 27326  
C.F.R. part 246, including imposition of a civil money penalty in 27327  
accordance with 7 C.F.R. 246.12, or rules adopted under this 27328  
section. 27329

**Sec. 3701.146.** (A) In taking actions regarding tuberculosis, 27330  
the director of health has all of the following duties and powers: 27331

(1) The director shall maintain registries of hospitals, 27332  
clinics, physicians, or other care providers to whom the director 27333  
shall refer persons who make inquiries to the department of health 27334  
regarding possible exposure to tuberculosis. 27335

(2) The director shall engage in tuberculosis surveillance 27336  
activities, including the collection and analysis of 27337

epidemiological information relative to the frequency of 27338  
tuberculosis infection, demographic and geographic distribution of 27339  
tuberculosis cases, and trends pertaining to tuberculosis. 27340

(3) The director shall maintain a tuberculosis registry to 27341  
record the incidence of tuberculosis in this state. 27342

(4) The director may appoint physicians to serve as 27343  
tuberculosis consultants for geographic regions of the state 27344  
specified by the director. Each tuberculosis consultant shall act 27345  
in accordance with rules the director establishes and shall be 27346  
responsible for advising and assisting physicians and other health 27347  
care practitioners who participate in tuberculosis control 27348  
activities and for reviewing medical records pertaining to the 27349  
treatment provided to individuals with tuberculosis. 27350

(B)(1) The ~~public health council~~ director shall adopt rules 27351  
establishing standards for the following: 27352

(a) Performing tuberculosis screenings; 27353

(b) Performing examinations of individuals who have been 27354  
exposed to tuberculosis and individuals who are suspected of 27355  
having tuberculosis; 27356

(c) Providing treatment to individuals with tuberculosis; 27357

(d) Preventing individuals with communicable tuberculosis 27358  
from infecting other individuals; 27359

(e) Performing laboratory tests for tuberculosis and studies 27360  
of the resistance of tuberculosis to one or more drugs; 27361

(f) Selecting laboratories that provide in a timely fashion 27362  
the results of a laboratory test for tuberculosis. The standards 27363  
shall include a requirement that first consideration be given to 27364  
laboratories located in this state. 27365

(2) Rules adopted pursuant to this section shall be adopted 27366  
in accordance with Chapter 119. of the Revised Code and may be 27367

consistent with any recommendations or guidelines on tuberculosis 27368  
issued by the United States centers for disease control and 27369  
prevention or by the American thoracic society. The rules shall 27370  
apply to county or district tuberculosis control units, physicians 27371  
who examine and treat individuals for tuberculosis, and 27372  
laboratories that perform tests for tuberculosis. 27373

**Sec. 3701.161.** The director of health shall make necessary 27374  
arrangements for the production and distribution of diphtheria 27375  
antitoxin. Such antitoxin shall in all respects be equal in purity 27376  
and potency to the standard of requirements of the United States 27377  
public health service for antitoxin for interstate commerce. 27378  
Diphtheria antitoxin shall be distributed in accordance with rules 27379  
the ~~public health council~~ director adopts pursuant to Chapter 119. 27380  
of the Revised Code. 27381

**Sec. 3701.20.** (A) In accordance with rules adopted ~~by the~~ 27382  
~~public health council~~, under division (C) of this section, the 27383  
director of health shall establish, promote, and maintain the Ohio 27384  
poison control network; designate regions within the network; and 27385  
designate poison prevention and treatment centers within each 27386  
region. The purposes of the network are to: 27387

(1) Reduce the mortality resulting from and the expenditures 27388  
incurred because of accidental, homicidal, suicidal, occupational, 27389  
or environmental poisoning; 27390

(2) Educate the public and health care professionals 27391  
concerning the prevention and treatment of exposure to poison; 27392

(3) Organize poison prevention and treatment activities on a 27393  
regional basis to avoid duplication and waste. 27394

(B) To be eligible for designation as a poison prevention and 27395  
treatment center and to retain the designation, a center must 27396  
maintain compliance with the standards established by the ~~public~~ 27397

~~health council~~ director pursuant to division (C) of this section. 27398  
A poison prevention and treatment center may be operated by an 27399  
individual, hospital, institution of higher education, political 27400  
subdivision, association, corporation, or public or private 27401  
agency. 27402

(C) In accordance with Chapter 119. of the Revised Code, the 27403  
~~public health council~~ director shall adopt rules that do the 27404  
following: 27405

(1) Establish guidelines, based on population density and 27406  
other relevant factors, and procedures to be followed ~~by the~~ 27407  
~~director of health~~ in designating poison control network regions 27408  
and centers; 27409

(2) Establish standards for the operation of poison 27410  
prevention and treatment centers; 27411

(3) Establish standards and procedures to be followed ~~by the~~ 27412  
~~director of health~~ in making grants to poison prevention and 27413  
treatment centers; 27414

(4) Establish procedures, other than those prescribed by 27415  
Chapter 119. of the Revised Code, for reconsideration, at the 27416  
request of the entity affected, of the denial or revocation of a 27417  
designation as a poison prevention and treatment center. 27418

(D) In accordance with rules adopted ~~by the public health~~ 27419  
~~council~~ under division (C) of this section, the director of health 27420  
shall make grants to poison prevention and treatment centers. A 27421  
center is not eligible for a grant unless, prior to receiving the 27422  
grant, the entity that operates the center agrees in writing that 27423  
the level of the total funds, labor, and services devoted by the 27424  
entity to the center during the period of the grant will 27425  
approximate, as determined by the director of health, the level of 27426  
the total funds, labor, and services devoted to the center by that 27427  
entity in the fiscal year preceding the fiscal year in which the 27428

grant begins. 27429

(E) Each poison prevention and treatment center shall do all 27430  
of the following: 27431

(1) Maintain and staff a twenty-four-hour per day, toll-free, 27432  
telephone line to respond to inquiries and provide information 27433  
about poison prevention and treatment and available services; 27434

(2) Provide specialized treatment, consultation, information, 27435  
and educational programs to health care professionals and the 27436  
public; 27437

(3) Compile information on the types and frequency of 27438  
treatment it provides. 27439

A center may provide the services described in divisions 27440  
(E)(1) and (2) of this section either directly or through contract 27441  
with other facilities, as the director of health considers 27442  
appropriate. Each center shall take measures to ensure the 27443  
confidentiality of information about individuals to whom treatment 27444  
or services are provided. 27445

(F) The director of health may revoke the designation of a 27446  
poison treatment and control center, or deny an application for 27447  
designation, if the center or applicant fails to meet or maintain 27448  
the standards established ~~by rule of the public health council in~~ in 27449  
rules adopted under division (C) of this section. The entity 27450  
seeking the designation may have the revocation or denial 27451  
reconsidered in accordance with rules adopted ~~by the public health~~ 27452  
~~council~~ under division (C) of this section. 27453

(G)(1) A poison prevention and treatment center, its 27454  
officers, employees, volunteers, or other persons associated with 27455  
the center, and a person, organization, or institution that 27456  
advises or assists a poison prevention and treatment center are 27457  
not liable in damages in a tort action for harm that allegedly 27458  
arises from advice or assistance rendered to any person unless the 27459

advice or assistance is given in a manner that constitutes willful or wanton misconduct or intentionally tortious conduct.

(2) This section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center, or a person, organization, or institution that advises or assists a poison prevention and treatment center.

(3) This section does not affect, and shall not be construed as affecting, any immunities from civil liability or defenses conferred by any other section of the Revised Code or available at common law, to which a poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center or a person, organization, or institution that advises or assists a poison prevention and treatment center may be entitled under circumstances not specified by this section.

(H) The director shall annually report to the general assembly findings and recommendations concerning the effectiveness, impact, and benefits of the poison prevention and treatment centers.

**Sec. 3701.201.** (A) As used in this section, "bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.

(B) The ~~public director of health council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code under which a poison prevention and treatment center or other health-related entity is required to report events that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological or chemical toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following:

(1) An unexpected pattern or increase in the number of 27490  
telephone inquiries or requests to provide information about 27491  
poison prevention and treatment and available services; 27492

(2) An unexpected pattern or increase in the number of 27493  
requests to provide specialized treatment, consultation, 27494  
information, and educational programs to health care professionals 27495  
and the public; 27496

(3) An unexpected pattern or increase in the number of 27497  
requests for information on established or novel infectious agents 27498  
or biological or chemical toxins posing a risk of human fatality 27499  
or disability that is relatively uncommon and may have been caused 27500  
by bioterrorism. 27501

(C) Each poison prevention and treatment center and other 27502  
health-related entity shall comply with any reporting requirement 27503  
established in rules adopted under division (B) of this section. 27504

(D) Information reported under this section that is protected 27505  
health information pursuant to section 3701.17 of the Revised Code 27506  
shall be released only in accordance with that section. 27507  
Information that does not identify an individual may be released 27508  
in summary, statistical, or aggregate form. 27509

**Sec. 3701.21.** (A) As used in this section: 27510

(1) "Amblyopia" means reduced vision in an eye that has not 27511  
received adequate use during early childhood. 27512

(2) "501(c) organization" means an organization exempt from 27513  
federal income taxation pursuant to 26 U.S.C.A. 501(a) and (c). 27514

(B) There is hereby created in the state treasury the save 27515  
our sight fund. The fund shall consist of voluntary contributions 27516  
deposited as provided in section 4503.104 of the Revised Code. All 27517  
investment earnings from the fund shall be credited to the fund. 27518

(C) The director of health shall use the money in the save 27519

our sight fund as follows: 27520

(1) To provide support to 501(c) organizations that offer 27521  
vision services in all counties of the state and have demonstrated 27522  
experience in the delivery of vision services to do one or more of 27523  
the following: 27524

(a) Implement a voluntary children's vision screening 27525  
training and certification program for volunteers, child care 27526  
providers, nurses, teachers, health care professionals practicing 27527  
in primary care settings, and others serving children; 27528

(b) Provide materials for the program implemented under 27529  
division (C)(1)(a) of this section; 27530

(c) Develop and implement a registry and targeted voluntary 27531  
case management system to determine whether children with 27532  
amblyopia are receiving professional eye care and to provide their 27533  
parents with information and support regarding their child's 27534  
vision care; 27535

(d) Establish a matching grant program for the purchase and 27536  
distribution of protective eyewear to children; 27537

(e) Provide vision health and safety programs and materials 27538  
for classrooms. 27539

(2) For the purpose of section 4503.104 of the Revised Code, 27540  
to develop and distribute informational materials on the 27541  
importance of eye care and safety to the registrar of motor 27542  
vehicles and each deputy registrar; 27543

(3) To pay costs incurred by the director in administering 27544  
the fund; 27545

(4) To reimburse the bureau of motor vehicles for the 27546  
administrative costs incurred in performing its duties under 27547  
section 4503.104 of the Revised Code. 27548

(D) A 501(c) organization seeking funding from the save our 27549

sight fund for any of the projects specified in division (C) of 27550  
this section shall submit a request for the funding to the 27551  
director in accordance with rules adopted under division (E) of 27552  
this section. The director shall determine the appropriateness of 27553  
and approve or disapprove projects for funding and approve or 27554  
disapprove the disbursement of money from the save our sight fund. 27555

(E) The ~~public health council~~ director shall adopt rules in 27556  
accordance with Chapter 119. of the Revised Code to implement this 27557  
section. The rules shall include the parameters of the projects 27558  
specified in division (C)(1) of this section that may be funded 27559  
with money in the save our sight fund and procedures for 501(c) 27560  
organizations to request funding from the fund. 27561

**Sec. 3701.221.** (A) The director of health shall have charge 27562  
of the public health laboratory authorized by section 3701.22 of 27563  
the Revised Code. The director may employ an assistant for the 27564  
laboratory who shall be a person skilled in chemistry and 27565  
bacteriology, and receive compensation as the director determines. 27566  
All expenses of the laboratory shall be paid from appropriations 27567  
made for the department of health. 27568

(B) The ~~public health council~~ director, in accordance with 27569  
Chapter 119. of the Revised Code, shall adopt, and may amend or 27570  
rescind, rules establishing reasonable fees for services the 27571  
laboratory performs. The ~~council~~ director need not prescribe fees 27572  
where the ~~council~~ director believes that charging fees would 27573  
significantly and adversely affect the public health. All fees 27574  
collected for services the laboratory performs shall be deposited 27575  
into the state treasury to the credit of the "laboratory handling 27576  
fee fund," which is hereby created for the purpose of defraying 27577  
expenses of operating the laboratory. 27578

**Sec. 3701.23.** (A) As used in this section, "health care 27579

provider" means any person or government entity that provides 27580  
health care services to individuals. "Health care provider" 27581  
includes, but is not limited to, hospitals, medical clinics and 27582  
offices, special care facilities, medical laboratories, 27583  
physicians, pharmacists, dentists, physician assistants, 27584  
registered and licensed practical nurses, laboratory technicians, 27585  
emergency medical service organization personnel, and ambulance 27586  
service organization personnel. 27587

(B) Boards of health, health authorities or officials, health 27588  
care providers in localities in which there are no health 27589  
authorities or officials, and coroners or medical examiners shall 27590  
report promptly to the department of health the existence of any 27591  
of the following: 27592

(1) Asiatic cholera; 27593

(2) Yellow fever; 27594

(3) Diphtheria; 27595

(4) Typhus or typhoid fever; 27596

(5) As specified by the ~~public director of health council~~, 27597  
other contagious or infectious diseases, illnesses, health 27598  
conditions, or unusual infectious agents or biological toxins 27599  
posing a risk of human fatality or disability. 27600

(C) No person shall fail to comply with the reporting 27601  
requirements established under division (B) of this section. 27602

(D) The reports required by this section shall be submitted 27603  
on forms, as required by statute or rule, and in the manner the 27604  
director of health prescribes. 27605

(E) Information reported under this section that is protected 27606  
health information pursuant to section 3701.17 of the Revised Code 27607  
shall be released only in accordance with that section. 27608  
Information that does not identify an individual may be released 27609

in summary, statistical, or aggregate form. 27610

**Sec. 3701.232.** (A) As used in this section: 27611

(1) "Bioterrorism" means the intentional use of any 27612  
microorganism, virus, infectious substance, or biological product 27613  
that may be engineered as a result of biotechnology, or any 27614  
naturally occurring or bioengineered component of a microorganism, 27615  
virus, infectious substance, or biological product, to cause 27616  
death, disease, or other biological malfunction in a human, 27617  
animal, plant, or other living organism as a means of influencing 27618  
the conduct of government or intimidating or coercing a 27619  
population. 27620

(2) "Pharmacist" means an individual licensed under Chapter 27621  
4729. of the Revised Code to engage in the practice of pharmacy as 27622  
a pharmacist. 27623

(3) "Pharmacy" and "prescription" have the same meanings as 27624  
in section 4729.01 of the Revised Code. 27625

(B) The ~~public~~ director of health council shall adopt rules 27626  
in accordance with Chapter 119. of the Revised Code under which a 27627  
pharmacy or pharmacist is required to report significant changes 27628  
in medication usage that may be caused by bioterrorism, epidemic 27629  
or pandemic disease, or established or novel infectious agents or 27630  
biological toxins posing a risk of human fatality or disability. 27631  
Rules adopted under this section may require a report of any of 27632  
the following: 27633

(1) An unexpected increase in the number of prescriptions for 27634  
antibiotics; 27635

(2) An unexpected increase in the number of prescriptions for 27636  
medication to treat fever or respiratory or gastrointestinal 27637  
complaints; 27638

(3) An unexpected increase in sales of, or the number of 27639

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| requests for information on, over-the-counter medication to treat  | 27640 |
| fever or respiratory or gastrointestinal complaints;               | 27641 |
| (4) Any prescription for medication used to treat a disease        | 27642 |
| that is relatively uncommon and may have been caused by            | 27643 |
| bioterrorism.  | 27644 |
| (C) No person shall fail to comply with any reporting              | 27645 |
| requirement established in rules adopted under division (B) of     | 27646 |
| this section.  | 27647 |
| (D) Information reported under this section that is protected      | 27648 |
| health information pursuant to section 3701.17 of the Revised Code | 27649 |
| shall be released only in accordance with that section.            | 27650 |
| Information that does not identify an individual may be released   | 27651 |
| in summary, statistical, or aggregate form.                        | 27652 |
| <br>   |       |
| <b>Sec. 3701.24.</b> (A) As used in this section and sections      | 27653 |
| 3701.241 to 3701.249 of the Revised Code:                          | 27654 |
| (1) "AIDS" means the illness designated as acquired                | 27655 |
| immunodeficiency syndrome.   | 27656 |
| (2) "HIV" means the human immunodeficiency virus identified        | 27657 |
| as the causative agent of AIDS.                                    | 27658 |
| (3) "AIDS-related condition" means symptoms of illness             | 27659 |
| related to HIV infection, including AIDS-related complex, that are | 27660 |
| confirmed by a positive HIV test.                                  | 27661 |
| (4) "HIV test" means any test for the antibody or antigen to       | 27662 |
| HIV that has been approved by the director of health under         | 27663 |
| division (B) of section 3701.241 of the Revised Code.              | 27664 |
| (5) "Health care facility" has the same meaning as in section      | 27665 |
| 1751.01 of the Revised Code.                                       | 27666 |
| (6) "Director" means the director of health or any employee        | 27667 |
| of the department of health acting on the director's behalf.       | 27668 |

(7) "Physician" means a person who holds a current, valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine or surgery and osteopathic medicine and surgery.

(8) "Nurse" means a registered nurse or licensed practical nurse who holds a license or certificate issued under Chapter 4723. of the Revised Code.

(9) "Anonymous test" means an HIV test administered so that the individual to be tested can give informed consent to the test and receive the results by means of a code system that does not link the identity of the individual tested to the request for the test or the test results.

(10) "Confidential test" means an HIV test administered so that the identity of the individual tested is linked to the test but is held in confidence to the extent provided by sections 3701.24 to 3701.248 of the Revised Code.

(11) "Health care provider" means an individual who provides diagnostic, evaluative, or treatment services. Pursuant to Chapter 119. of the Revised Code, the ~~public health council~~ director may adopt rules further defining the scope of the term "health care provider."

(12) "Significant exposure to body fluids" means a percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another individual.

(13) "Emergency medical services worker" means all of the following:

(a) A peace officer;

(b) An employee of an emergency medical service organization as defined in section 4765.01 of the Revised Code;

|   |   |
|---|---|
| (c) A firefighter employed by a political subdivision;  | 27699   |
| (d) A volunteer firefighter, emergency operator, or rescue operator;  | 27700<br>27701  |
| (e) An employee of a private organization that renders rescue services, emergency medical services, or emergency medical transportation to accident victims and persons suffering serious illness or injury.  | 27702<br>27703<br>27704<br>27705  |
| (14) "Peace officer" has the same meaning as in division (A) of section 109.71 of the Revised Code, except that it also includes a sheriff and the superintendent and troopers of the state highway patrol.   | 27706<br>27707<br>27708<br>27709  |
| (B) Persons designated by rule adopted by the <del>public health council</del> <u>director</u> under section 3701.241 of the Revised Code shall report promptly every case of AIDS, every AIDS-related condition, and every confirmed positive HIV test to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.   | 27710<br>27711<br>27712<br>27713<br>27714<br>27715<br>27716                                     |
| (C) No person shall fail to comply with the reporting requirements established under division (B) of this section.  | 27717<br>27718  |
| (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 | 27719<br>27720<br>27721<br>27722<br>27723<br>27724<br>27725<br>27726<br>27727<br>27728<br>27729 |

an individual may be released in summary, statistical, or 27730  
aggregate form. 27731

**Sec. 3701.241.** (A) The director of health shall develop and 27732  
administer the following: 27733

(1) A surveillance system to determine the number of cases of 27734  
AIDS and the HIV infection rate in various population groups; 27735

(2) Counseling and testing programs for groups determined by 27736  
the director to be at risk of HIV infection, including procedures 27737  
for both confidential and anonymous tests, counseling training 27738  
programs for health care providers, and development of counseling 27739  
guidelines; 27740

(3) A confidential partner notification system to alert and 27741  
counsel sexual contacts of individuals with HIV infection; 27742

(4) Risk reduction and education programs for groups 27743  
determined by the director to be at risk of HIV infection, and, in 27744  
consultation with a wide range of community leaders, education 27745  
programs for the public; 27746

(5) Pilot programs for the long-term care of individuals with 27747  
AIDS or AIDS-related condition, including care in nursing homes 27748  
and in alternative settings; 27749

(6) Programs to expand regional outpatient treatment of 27750  
individuals with AIDS or AIDS-related condition; 27751

(7) A program to assist communities, including communities of 27752  
less than one hundred thousand population, in establishing AIDS 27753  
task forces and support groups for individuals with AIDS, 27754  
AIDS-related condition, and HIV infection. The program may include 27755  
the award of grants if they are matched by local funds. 27756

Information obtained or maintained under the partner 27757  
notification system is not a public record under section 149.43 of 27758  
the Revised Code and may be released only in accordance with 27759

division (C) of section 3701.243 of the Revised Code. 27760

(B) The director shall: 27761

(1) Approve a test or tests to be used to determine whether 27762  
an individual has HIV infection, define a confirmed positive test 27763  
result, and develop guidelines for interpreting test results; 27764

(2) Establish sites for confidential and anonymous HIV tests, 27765  
and prepare a list of sites where an individual may obtain an 27766  
anonymous test; 27767

(3) Prepare a list of counseling services; 27768

(4) Make available a copy of the list of anonymous testing 27769  
sites or a copy of the list of counseling services to anyone who 27770  
requests it. 27771

(C) The director of health shall require the director or 27772  
administrator of each site where anonymous or confidential HIV 27773  
tests are given to submit a report every three months evaluating 27774  
from an epidemiologic perspective the effectiveness of the HIV 27775  
testing program at that site. Not later than January 31, 1991, and 27776  
each year thereafter, the director of health shall make a report 27777  
evaluating the anonymous and confidential testing programs 27778  
throughout the state with regard to their effectiveness as 27779  
epidemiologic programs. The report shall be submitted to the 27780  
speaker of the house of representatives and the president of the 27781  
senate and shall be made available to the public. 27782

The ~~public~~ director of health council shall adopt rules 27783  
pursuant to Chapter 119. of the Revised Code for the 27784  
implementation of the requirements of division (B)(1) of this 27785  
section and division (D) of section 3701.24 of the Revised Code. 27786

(D) The director of health shall administer funds received 27787  
under Title XXVI of the "Public Health Services Act," 104 Stat. 27788  
576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve 27789

the quality and availability of care for individuals with AIDS, 27790  
AIDS-related condition, and HIV infection. In administering these 27791  
funds, the director may enter into contracts with any person or 27792  
entity for the purpose of administering the programs, including 27793  
contracts with the department of job and family services for 27794  
establishment of a program of reimbursement of drugs used for 27795  
treatment and care of such individuals. The director of health may 27796  
adopt rules in accordance with Chapter 119. of the Revised Code 27797  
and issue orders as necessary for administration of the funds. If 27798  
the department of job and family services enters into a contract 27799  
under this division, the director of job and family services may 27800  
adopt rules in accordance with Chapter 119. of the Revised Code as 27801  
necessary for carrying out the department's duties under the 27802  
contract. 27803

**Sec. 3701.242.** (A) An HIV test may be performed by or on the 27804  
order of a health care provider who, in the exercise of the 27805  
provider's professional judgment, determines the test to be 27806  
necessary for providing diagnosis and treatment to the individual 27807  
to be tested, if the individual or the individual's parent or 27808  
guardian has given consent to the provider for medical or other 27809  
health care treatment. The health care provider shall inform the 27810  
individual of the individual's right under division (D) of this 27811  
section to an anonymous test. 27812

(B) A minor may consent to be given an HIV test. The consent 27813  
is not subject to disaffirmance because of minority. The parents 27814  
or guardian of a minor giving consent under this division are not 27815  
liable for payment and shall not be charged for an HIV test given 27816  
to the minor without the consent of a parent or the guardian. 27817

(C) The health care provider ordering an HIV test shall 27818  
provide post-test counseling for an individual who receives an 27819  
HIV-positive test result. The ~~public director of health council~~ 27820

may adopt rules, ~~pursuant to recommendations from the director of~~ 27821  
~~health and~~ in accordance with Chapter 119. of the Revised Code, 27822  
specifying the information to be provided in post-test counseling. 27823

(D) An individual shall have the right to an anonymous test. 27824  
A health care facility or health care provider that does not 27825  
provide anonymous testing shall refer an individual requesting an 27826  
anonymous test to a site where it is available. 27827

(E) Divisions (B) to (D) of this section do not apply to the 27828  
performance of an HIV test in any of the following circumstances: 27829

(1) When the test is performed in a medical emergency by a 27830  
nurse or physician and the test results are medically necessary to 27831  
avoid or minimize an immediate danger to the health or safety of 27832  
the individual to be tested or another individual, except that 27833  
post-test counseling shall be given to the individual if the 27834  
individual receives an HIV-positive test result; 27835

(2) When the test is performed for the purpose of research if 27836  
the researcher does not know and cannot determine the identity of 27837  
the individual tested; 27838

(3) When the test is performed by a person who procures, 27839  
processes, distributes, or uses a human body part from a deceased 27840  
person donated for a purpose specified in Chapter 2108. of the 27841  
Revised Code, if the test is medically necessary to ensure that 27842  
the body part is acceptable for its intended purpose; 27843

(4) When the test is performed on a person incarcerated in a 27844  
correctional institution under the control of the department of 27845  
rehabilitation and correction if the head of the institution has 27846  
determined, based on good cause, that a test is necessary; 27847

(5) When the test is performed in accordance with section 27848  
2907.27 of the Revised Code; 27849

(6) When the test is performed on an individual after the 27850

infection control committee of a health care facility, or other 27851  
body of a health care facility performing a similar function 27852  
determines that a health care provider, emergency medical services 27853  
worker, or peace officer, while rendering health or emergency care 27854  
to an individual, has sustained a significant exposure to the body 27855  
fluids of that individual, and the individual has refused to give 27856  
consent for testing. 27857

**Sec. 3701.248.** (A) As used in this section: 27858

(1) "Contagious or infectious disease" means a disease 27859  
specified ~~by rule~~ in rules adopted by the ~~public director of~~ 27860  
health ~~council~~ pursuant to division (F) of this section. 27861

(2) "Patient" means either of the following: 27862

(a) A person, whether alive or dead, who has been treated, or 27863  
handled, or transported for medical care by an emergency medical 27864  
services worker; 27865

(b) A deceased person whose body is handled by a funeral 27866  
services worker. 27867

(3) "Significant exposure" means: 27868

(a) A percutaneous or mucous membrane exposure of an 27869  
individual to the blood, semen, vaginal secretions, or spinal, 27870  
synovial, pleural, peritoneal, pericardial, or amniotic fluid of 27871  
another person; 27872

(b) Exposure to a contagious or infectious disease. 27873

(4) "Funeral services worker" means a person licensed as a 27874  
funeral director or embalmer under Chapter 4717. of the Revised 27875  
Code or an individual responsible for the direct final disposition 27876  
of a deceased person. 27877

(B)(1) An emergency medical services worker or funeral 27878  
services worker who believes that significant exposure has 27879

occurred through the worker's contact with a patient may submit to 27880  
the health care facility or coroner that received the patient a 27881  
written request to be notified of the results of any test 27882  
performed on the patient to determine the presence of a contagious 27883  
or infectious disease. The request shall include: 27884

(a) The name, address, and telephone number of the individual 27885  
submitting the request; 27886

(b) The name of the individual's employer, or, in the case of 27887  
a volunteer emergency medical services worker, the entity for 27888  
which the worker volunteers, and the individual's supervisor; 27889

(c) The date, time, location, and manner of the exposure. 27890

(2) The request for notification that is submitted by an 27891  
emergency medical services worker pursuant to division (B)(1) of 27892  
this section is valid for ten days after it is made. If at the end 27893  
of that ten-day period no test has been performed to determine the 27894  
presence of a contagious or infectious disease, no diagnosis has 27895  
been made, or the result of the test is negative, the health care 27896  
facility or coroner shall notify the emergency medical services 27897  
worker. The notification shall not include the name of the 27898  
patient. If necessary, the request may be renewed in accordance 27899  
with the same procedures and requirements as the original request. 27900

(3) A health care facility or coroner shall respond 27901  
immediately to a request for notification submitted pursuant to 27902  
division (B)(1) of this section by a funeral services worker. If 27903  
no test has been performed to determine the presence of a 27904  
contagious or infectious disease, no diagnosis has been made, or 27905  
the result of a test that was performed is negative, the health 27906  
care facility or coroner shall immediately notify the funeral 27907  
services worker. The notification shall not include the name of 27908  
the patient. 27909

On receipt of notification that no test has been performed to 27910

determine the presence of a contagious or infectious disease in a 27911  
patient, the funeral services worker may have a test performed on 27912  
the patient. The test shall be performed in accordance with rules 27913  
adopted by the department of health pursuant to division (G) of 27914  
this section. 27915

The consent of the patient's family is not required for 27916  
performance of a test pursuant to division (B)(3) of this section. 27917

(C) The health care facility or coroner that receives a 27918  
written request for notification shall give an oral notification 27919  
of the presence of a contagious or infectious disease, or of a 27920  
confirmed positive test result, if known, to the person who made 27921  
the request and the person's supervisor and to the infection 27922  
control committee or other body described in division (E)(6) of 27923  
section 3701.242 of the Revised Code within two days after 27924  
determining the presence of a contagious or infectious disease or 27925  
after a confirmed positive test result. A written notification 27926  
shall follow oral notification within three days. If a contagious 27927  
or infectious disease is present, or the test results are 27928  
confirmed positive, both the oral and written notification shall 27929  
include the name of the disease, its signs and symptoms, the date 27930  
of exposure, the incubation period, the mode of transmission of 27931  
the disease, the medical precautions necessary to prevent 27932  
transmission to other persons, and the appropriate prophylaxis, 27933  
treatment, and counseling for the disease. The notification shall 27934  
not include the name of the patient. 27935

If the request is made by an emergency medical services 27936  
worker and the information is not available from the health care 27937  
facility to which the request is made because the patient has been 27938  
transferred from that health care facility, the facility shall 27939  
assist the emergency medical services worker in locating the 27940  
patient and securing the requested information from the health 27941  
care facility that treated or is treating the patient. If the 27942

patient has died, the health care facility shall give the 27943  
emergency medical services worker the name and address of the 27944  
coroner who received the patient. 27945

(D) Each health care facility and coroner shall develop 27946  
written procedures to implement the notification procedures 27947  
required by this section. A health care facility or coroner may 27948  
take measures in addition to those required in this section to 27949  
notify emergency medical services workers and funeral services 27950  
workers of possible exposure to a contagious or infectious disease 27951  
as long as the confidentiality of the information is maintained. 27952

(E) No person shall knowingly fail to comply with division 27953  
(C) of this section. 27954

(F) The ~~public~~ director of health council shall adopt rules 27955  
in accordance with Chapter 119. of the Revised Code that specify 27956  
the diseases that are reasonably likely to be transmitted by air 27957  
or blood during the normal course of duties performed by an 27958  
emergency medical services worker or funeral services worker. In 27959  
adopting such rules, the ~~council~~ director shall consider the types 27960  
of contact that typically occur between patients and emergency 27961  
medical services workers and funeral services workers. 27962

(G) The department of health shall adopt rules in accordance 27963  
with Chapter 119. of the Revised Code specifying the procedures a 27964  
funeral services worker must follow when having a test performed 27965  
on a patient pursuant to division (B)(3) of this section. The 27966  
rules shall specify how and by whom the test is to be performed. 27967  
The rules shall require the funeral services worker or the funeral 27968  
services worker's employer to pay the cost of the test. No health 27969  
care facility shall be required to perform the test. 27970

Sec. 3701.33. (A) There is hereby created the Ohio public 27971  
health advisory board. The board shall consist of the following 27972  
members: 27973

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| <u>(1) The following members appointed by the director of health</u>     | 27974 |
| <u>from among individuals who are not employed by the state and are</u>  | 27975 |
| <u>recommended by statewide trade or professional organizations that</u> | 27976 |
| <u>represent interests in public health:</u>                             | 27977 |
| <u>(a) One individual authorized under Chapter 4731. of the</u>          | 27978 |
| <u>Revised Code to practice medicine and surgery or osteopathic</u>      | 27979 |
| <u>medicine and surgery;</u>   | 27980 |
| <u>(b) One individual authorized under Chapter 4723. of the</u>          | 27981 |
| <u>Revised Code to practice nursing as a registered nurse;</u>           | 27982 |
| <u>(c) Three members of the public, two of whom are</u>                  | 27983 |
| <u>representatives of entities licensed by the department of health</u>  | 27984 |
| <u>or boards of health.</u>  | 27985 |
| <u>(2) One representative of the association of Ohio health</u>          | 27986 |
| <u>commissioners, appointed by the association;</u>                      | 27987 |
| <u>(3) One representative of the Ohio public health association,</u>     | 27988 |
| <u>appointed by the association;</u>                                     | 27989 |
| <u>(4) One representative of the Ohio environmental health</u>           | 27990 |
| <u>association, appointed by the association, who is registered as a</u> | 27991 |
| <u>sanitarian under Chapter 4736. of the Revised Code;</u>               | 27992 |
| <u>(5) One representative of the Ohio association of boards of</u>       | 27993 |
| <u>health, appointed by the association;</u>                             | 27994 |
| <u>(6) One representative of the Ohio society for public health</u>      | 27995 |
| <u>education, appointed by the society;</u>                              | 27996 |
| <u>(7) One representative of the Ohio hospital association,</u>          | 27997 |
| <u>appointed by the association.</u>                                     | 27998 |
| <u>The director of health or the director's designee shall serve</u>     | 27999 |
| <u>as an ex officio, nonvoting member of the board.</u>                  | 28000 |
| <u>(B) Not later than thirty days after the effective date of</u>        | 28001 |
| <u>this section, initial appointments shall be made to the board. Of</u> | 28002 |
| <u>the initial appointments, the members specified in divisions</u>      | 28003 |

(A)(5), (6), and (7) and division (A)(1)(c) of this section 28004  
representing entities licensed by the department of health or 28005  
boards of health shall serve terms ending June 30, 2014, and the 28006  
members specified in divisions (A)(1)(a) and (b), divisions 28007  
(A)(2), (3), and (4), and division (A)(1)(c) of this section not 28008  
representing entities licensed by the department or boards of 28009  
health shall serve terms ending June 30, 2015. Thereafter, terms 28010  
of office for all members shall be three years, with each term 28011  
ending on the same day of the same month as the term it succeeds. 28012  
Each member shall hold office from the date of appointment until 28013  
the end of the term for which the member was appointed. Members 28014  
may be reappointed, except that no member who has served two 28015  
consecutive terms may be reappointed until three years have 28016  
elapsed since the member's last term ended. 28017

Each member shall hold office from the date of appointment 28018  
until the end of the term for which the member was appointed. 28019  
Vacancies shall be filled in the same manner as original 28020  
appointments. 28021

Any member appointed to fill a vacancy occurring prior to the 28022  
expiration of the term for which the member's predecessor was 28023  
appointed shall hold office for the remainder of that term. A 28024  
member shall continue in office subsequent to the expiration date 28025  
of the member's term until the member's successor takes office or 28026  
until a period of ninety days has elapsed, whichever occurs first. 28027

(C) The board shall annually select from among its members a 28028  
chairperson and vice-chairperson. The director shall designate an 28029  
officer or employee of the department to act as the board's 28030  
secretary. The secretary shall be a nonvoting board member. 28031

The board may adopt by laws governing its operation. The 28032  
chairperson may appoint subcommittees as the chairperson considers 28033  
necessary. 28034

(D) The board shall meet at the call of the chairperson, but not less than four times per year. A majority of the members of the board constitutes a quorum. Special meetings may be called by the chairperson and shall be called by the chairperson at the request of the director. In a request for a special meeting, the director shall specify the purpose of the meeting and the date and place the meeting is to be held. No other business shall be considered at a special meeting except by a unanimous vote of members present at the meeting. 28035  
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In conducting any meeting, the board and its subcommittees may use an interactive video teleconferencing system. If provisions are made that allow public attendance at a designated location with respect to a meeting using such a system, the board members who attend the meeting by video teleconference shall be counted for purposes of determining whether a quorum is present and shall be permitted to vote. 28044  
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Members shall be expected to attend a majority of meetings of the board. Unexcused absence from three consecutive meetings shall be considered notice of a member's intent to resign from the board. 28051  
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(E)(1) The department shall provide meeting space and staff and other administrative support for the board to carry out its duties. 28055  
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(2) To facilitate the board's review of proposed rules under division (A)(1) of section 3701.34 of the Revised Code, the department shall establish and maintain an electronic web-based database of board meeting agendas, board meeting minutes, proposed rules, public comments, and other documents relevant to the work of the board. 28058  
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(F) Notice of meetings shall be provided to members through the board's mailing list, the department's web site, or any other 28064  
28065

means available to the board. 28066

The minutes of previous meetings, the next meeting's agenda, 28067  
and information on any matters to be presented to the board at any 28068  
regular or special meeting shall be provided to the board in an 28069  
electronic format. 28070

(G) Members shall attend annual ethics training provided by 28071  
the Ohio ethics commission. 28072

(H) Members shall serve without compensation, but may be 28073  
reimbursed for actual and necessary expenses incurred in the 28074  
performance of their official duties. 28075

(I) Sections 101.82 to 101.87 of the Revised Code do not 28076  
apply to the Ohio public health advisory board. 28077

**Sec. 3701.34.** (A) The Ohio public health advisory board shall 28078  
review and make recommendations to the director of health on all 28079  
of the following: 28080

(1) Developing and adopting proposed rules under Chapters 28081  
3701 and 3717 of the Administrative Code; 28082

(2) Prescribing proposed fees for services provided by the 28083  
office of vital statistics and the bureau of environmental health; 28084

(3) Issues to improve public health and increase awareness of 28085  
public health issues at the state level, local level, or both; 28086

(4) Any other public health issues that the director requests 28087  
the board to consider. 28088

(B) In making recommendations to the director under division 28089  
(A)(1) of this section, all of the following apply: 28090

(1) Prior to filing a proposed rule with the joint committee 28091  
on agency rule review, the department of health shall provide each 28092  
board member with a copy of the proposed rule, copies of public 28093  
comments received by the department during the public comment 28094

period, and written evidence of stakeholder involvement. 28095

(2) Prior to board meetings, copies of proposed rules shall 28096  
be provided to members. On request of a member, the department 28097  
shall ensure that appropriate department employees attend board 28098  
meetings to answer questions concerning proposed rules. 28099

(3)(a) Not later than sixty days after receiving a copy of a 28100  
proposed rule, the board shall recommend approval or disapproval 28101  
of the rule and submit its recommendation by board action to the 28102  
director. In making its recommendation, the board may consider 28103  
public comments provided to the department or the board. 28104

(b) If the board fails to make a recommendation within sixty 28105  
days of receiving a copy of the proposed rule, the director may 28106  
file the proposed rule. 28107

(4) Except as provided in division (B)(3)(b) of this section, 28108  
the director shall consider the board's recommendation before 28109  
filing a proposed rule. On request of the board, the director 28110  
shall meet with the board to discuss the board's recommendation. 28111

(5) If the director disagrees with the board's 28112  
recommendation, the director shall inform the board in writing of 28113  
the director's decision and the reason for the decision prior to 28114  
the next quarterly meeting. The director or the director's 28115  
designee may meet with the board at the next quarterly meeting to 28116  
answer questions regarding why the director disagreed with the 28117  
board's recommendation. 28118

(C) To the extent the board believes that a proposed rule 28119  
does not comply with requirements established by the joint 28120  
committee on agency rule review or the common sense initiative 28121  
office, nothing in this section prohibits the board, in carrying 28122  
out its duties under division (A)(1) of this section, from 28123  
contacting the joint committee on agency rule review or the common 28124  
sense initiative office. 28125

(D) In making recommendations under division (A)(2) of this section for prescribing proposed fees for services provided by the bureau of environmental health, the board and the department shall develop a cost methodology subject to approval by the director. 28126  
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(E) This section does not apply to the following: 28130

(1) A proposed rule that is to be refiled with the joint committee on agency rule review solely because of technical or other nonsubstantive revisions; 28131  
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(2) The emergency adoption, amendment, or rescission of a rule under division (F) of section 119.03 of the Revised Code. 28134  
28135

**Sec. 3701.341.** (A) The ~~public director of health council~~, 28136  
pursuant to Chapter 119. and consistent with section 2317.56 of 28137  
the Revised Code, shall adopt rules relating to abortions and the 28138  
following subjects: 28139

(1) Post-abortion procedures to protect the health of the 28140  
pregnant woman; 28141

(2) Pathological reports; 28142

(3) Humane disposition of the product of human conception; 28143

(4) Counseling. 28144

(B) The director of health shall implement the rules and 28145  
shall apply to the court of common pleas for temporary or 28146  
permanent injunctions restraining a violation or threatened 28147  
violation of the rules. This action is an additional remedy not 28148  
dependent on the adequacy of the remedy at law. 28149

**Sec. 3701.342.** After consultation with the public health 28150  
standards task force established under section 3701.343 of the 28151  
Revised Code, the ~~public director of health council~~ shall adopt 28152  
rules establishing minimum standards and optimum achievable 28153  
standards for boards of health and local health departments. The 28154

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| minimum standards shall assure that boards of health and local                                | 28155 |
| health departments provide for:   | 28156 |
| (A) Analysis and prevention of communicable disease;  | 28157 |
| (B) Analysis of the causes of, and appropriate treatment for,                                 | 28158 |
| the leading causes of morbidity and mortality;  | 28159 |
| (C) The administration and management of the local health                                     | 28160 |
| department;   | 28161 |
| (D) Access to primary health care by medically underserved                                    | 28162 |
| individuals;  | 28163 |
| (E) Environmental health management programs;   | 28164 |
| (F) Health promotion services designed to encourage   | 28165 |
| individual and community wellness.  | 28166 |
| The <del>public health council</del> <u>director</u> shall adopt rules                        | 28167 |
| establishing a formula for distribution of state health district                              | 28168 |
| subsidy funds to boards of health and local health departments.                               | 28169 |
| The formula shall provide no subsidy funds to a board or                                      | 28170 |
| department unless it meets minimum standards and shall provide                                | 28171 |
| higher funding levels for boards and districts that meet optimum                              | 28172 |
| achievable standards.   | 28173 |
| Notwithstanding section 119.03 of the Revised Code, rules                                     | 28174 |
| adopted under this section shall not take effect unless approved                              | 28175 |
| by concurrent resolution of the general assembly.   | 28176 |
| <b>Sec. 3701.343.</b> The <del>chairman</del> <u>director</u> of the <del>public health</del> | 28177 |
| <del>council</del> shall, with the advice of the association of Ohio health                   | 28178 |
| commissioners <del>and the director of health</del> , appoint a public health                 | 28179 |
| standards task force to assist and advise the <del>public health</del>                        | 28180 |
| <del>council</del> <u>director</u> in formulating and evaluating the standards                | 28181 |
| established under section 3701.342 of the Revised Code for the                                | 28182 |
| provision of public health services. <del>The task force shall</del>                          | 28183 |
| <del>recommend its standards for all categories mentioned in section</del>                    | 28184 |

|  |       |
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| <del>3701.342 of the Revised Code on or before March 1, 1983.</del>              | 28185 |
| The task force shall have nine members, consisting of:                           | 28186 |
| (A) A sanitarian registered in accordance with Chapter 4736.                     | 28187 |
| of the Revised Code;   | 28188 |
| (B) A registered nurse licensed in accordance with Chapter                       | 28189 |
| 4723. of the Revised Code;   | 28190 |
| (C) A physician <del>licensed in accordance with</del> <u>who is authorized</u>  | 28191 |
| <u>under</u> Chapter 4731. of the Revised Code <u>to practice medicine and</u>   | 28192 |
| <u>surgery or osteopathic medicine and surgery;</u>                              | 28193 |
| (D) Three health commissioners;  | 28194 |
| (E) Two representatives of the department of health;                             | 28195 |
| (F) One individual with recognized ability in public health                      | 28196 |
| law, public health laboratories, epidemiology, nutrition, or                     | 28197 |
| health education.  | 28198 |
| <del>The public health standards task force shall complete its</del>             | 28199 |
| <del>work within three years after the effective date of this section</del>      | 28200 |
| <del>and shall cease to exist upon completion of its work, provided,</del>       | 28201 |
| <del>that the public health council may reconstitute the public health</del>     | 28202 |
| <del>standards task force, for the purpose of reviewing, evaluating,</del>       | 28203 |
| <del>and revising the standards mandated in section 3701.342 of the</del>        | 28204 |
| <del>Revised Code.</del>   | 28205 |
| Members of the task force shall elect a <del>chairman</del> <u>chairperson</u> . | 28206 |
| Five members of the task force constitute a quorum and six votes                 | 28207 |
| are necessary to validate an action.   | 28208 |
| <del>Within ninety days of the effective date of this section, the</del>         | 28209 |
| <del>chairman of the public health council shall make the appointments</del>     | 28210 |
| <del>to the task force. Within sixty days of their appointment, the</del>        | 28211 |
| <del>task force members shall meet, organize, and begin their work.</del>        | 28212 |
| Vacancies occurring on the task force shall be filled in the same                | 28213 |
| manner as the initial appointments.  | 28214 |

Members of the task force shall serve without compensation, 28215  
but may be reimbursed for necessary expenses. 28216

**Sec. 3701.344.** As used in this section and sections 3701.345, 28217  
3701.346, and 3701.347 of the Revised Code: 28218

(A) "Private water system" means any water system for the 28219  
provision of water for human consumption, if such system has fewer 28220  
than fifteen service connections and does not regularly serve an 28221  
average of at least twenty-five individuals daily at least sixty 28222  
days out of the year. A private water system includes any well, 28223  
spring, cistern, pond, or hauled water and any equipment for the 28224  
collection, transportation, filtration, disinfection, treatment, 28225  
or storage of such water extending from and including the source 28226  
of the water to the point of discharge from any pressure tank or 28227  
other storage vessel; to the point of discharge from the water 28228  
pump where no pressure tank or other storage vessel is present; 28229  
or, in the case of multiple service connections serving more than 28230  
one dwelling, to the point of discharge from each service 28231  
connection. "Private water system" does not include the water 28232  
service line extending from the point of discharge to a structure. 28233

(B) Notwithstanding section 3701.347 of the Revised Code and 28234  
subject to division (C) of this section, rules adopted by the 28235  
~~public director of health council~~ regarding private water systems 28236  
shall provide for the following: 28237

(1) Except as otherwise provided in this division, boards of 28238  
health of city or general health districts shall be given the 28239  
exclusive power to establish fees in accordance with section 28240  
3709.09 of the Revised Code for administering and enforcing such 28241  
rules. Such fees shall establish a different rate for 28242  
administering and enforcing the rules relative to private water 28243  
systems serving single-family dwelling houses and nonsingle-family 28244  
dwelling houses. Except for an amount established by the ~~public~~ 28245

~~health council~~ director, pursuant to division (B)(5) of this 28246  
section, for each new private water system installation, no 28247  
portion of any fee for administering and enforcing such rules 28248  
shall be returned to the department of health. If the director of 28249  
health determines that a board of health of a city or general 28250  
health district is unable to administer and enforce a private 28251  
water system program in the district, the director shall 28252  
administer and enforce such a program in the district and 28253  
establish fees for such administration and enforcement. 28254

(2) Boards of health of city or general health districts 28255  
shall be given the exclusive power to determine the number of 28256  
inspections necessary for determining the safe drinking 28257  
characteristics of a private water system. 28258

(3) Private water systems contractors, as a condition of 28259  
doing business in this state, shall annually register with, and 28260  
comply with surety bonding requirements of, the department of 28261  
health. No such contractor shall be permitted to register if the 28262  
contractor fails to comply with all applicable rules adopted by 28263  
the ~~public health council~~ director and the board of health of the 28264  
city or general health district. The annual registration fee for 28265  
private water systems contractors shall be sixty-five dollars. The 28266  
~~public health council~~ director, by rule adopted in accordance with 28267  
Chapter 119. of the Revised Code, may increase the annual 28268  
registration fee. ~~Before January 1, 1993, the fee shall not be~~ 28269  
~~increased by more than fifty per cent of the amount prescribed by~~ 28270  
~~this section.~~ 28271

(4) ~~Boards~~ Subject to rules adopted by the director, boards 28272  
of health of city or general health districts ~~subject to such~~ 28273  
~~rules of the public health council~~ shall have the option of 28274  
determining whether bacteriological examinations shall be 28275  
performed at approved laboratories of the state or at approved 28276  
private laboratories. 28277

(5) The ~~public health council~~ director may establish fees for 28278  
each new private water system installation, which shall be 28279  
collected by the appropriate board of health and transmitted to 28280  
the director ~~of health~~ pursuant to section 3709.092 of the Revised 28281  
Code. 28282

(6) All fees received by the director of health under 28283  
divisions (B)(1), (3), and (5) of this section shall be deposited 28284  
in the state treasury to the credit of the general operations fund 28285  
created in section 3701.83 of the Revised Code for use in the 28286  
administration and enforcement of sections 3701.344 to 3701.347 of 28287  
the Revised Code and the rules pertaining to private water systems 28288  
adopted under those sections ~~or section 3701.34 of the Revised~~ 28289  
Code. 28290

(C) To the extent that rules adopted under division (B) of 28291  
this section require health districts to follow specific 28292  
procedures or use prescribed forms, no such procedure or form 28293  
shall be implemented until it is approved by majority vote of an 28294  
approval board of health commissioners, hereby created. Members of 28295  
the board shall be the officers of the association of Ohio health 28296  
commissioners, or any successor organization, and membership on 28297  
the board shall be coterminous with holding an office of the 28298  
association. No health district is required to follow a procedure 28299  
or use a form required by a rule adopted under division (B) of 28300  
this section without the approval of the board. 28301

(D) A board of health shall collect well log filing fees on 28302  
behalf of the division of soil and water resources in the 28303  
department of natural resources in accordance with section 1521.05 28304  
of the Revised Code and rules adopted under it. The fees shall be 28305  
submitted to the division quarterly as provided in those rules. 28306

**Sec. 3701.345.** Any applicant for a permit to construct, 28307  
develop, install, or modify a private water system required by 28308

rules adopted by the ~~public director of health council~~ under 28309  
~~sections 3701.34 and section~~ 3701.347 of the Revised Code may 28310  
apply to the board of health of the city or general health 28311  
district administering and enforcing the private water supply 28312  
program in the health district in which the private water system 28313  
is or is to be located or, if the health district is not 28314  
administering and enforcing the program, may apply to the 28315  
department of health for a variance from such rules governing the 28316  
design, construction, development, installation, or modification 28317  
of private water systems. The application for a variance shall be 28318  
made in writing and shall include a statement of the particular 28319  
rule or rules from which a variance is sought, a description of 28320  
the proposed system or modification, and the necessity for the 28321  
variance. The board of health or the department of health shall 28322  
not grant a variance unless the applicant demonstrates that: 28323

(A) There will be an unusual and unnecessary hardship in 28324  
complying with the rules from which the variance is sought; 28325

(B) Contamination of the private water system will not occur 28326  
as a result of construction and operation of the system as 28327  
proposed by the variance application; 28328

(C) The health of persons using water from the private water 28329  
system will not be endangered as a result of construction and 28330  
operation of the system as proposed by the variance application; 28331  
and 28332

(D) No other technically feasible and economically reasonable 28333  
means exist for obtaining water from the proposed type of water 28334  
source. 28335

**Sec. 3701.347.** Notwithstanding division (E) of section 28336  
6111.42 of the Revised Code, rules adopted under such division and 28337  
in effect on December 14, 1978, shall continue in effect until 28338  
repealed by the environmental protection agency or superseded by 28339

rules ~~of~~ adopted by the public director of health council as 28340  
hereinafter provided, as fully as if such section had not been 28341  
amended by Amended Substitute Senate Bill No. 445 of the 112th 28342  
general assembly on such date. Insofar as these rules affect wells 28343  
for the provision of water for human consumption not used or for 28344  
use by a public water system, they shall remain in effect 28345  
notwithstanding repeal by the environmental protection agency 28346  
until the ~~public health council~~ director adopts rules superseding 28347  
them which prescribe uniform standards and procedures for the 28348  
design, construction, inspection, installation, development, 28349  
maintenance, and abandonment of private water systems, to protect 28350  
the health of the persons served by such water systems and to 28351  
establish fees at a level calculated to pay the cost of 28352  
administering and enforcing such rules by the director ~~health~~ or 28353  
by boards of health of city and general health districts approved 28354  
by the director of health. For purposes of this section "public 28355  
water system" has the meaning ascribed to it in section 6109.01 of 28356  
the Revised Code. 28357

**Sec. 3701.352.** No person shall violate any rule the ~~public~~ 28358  
~~health council~~, director of health, or department of health adopts 28359  
or any order the director or department of health issues under 28360  
this chapter to prevent a threat to the public caused by a 28361  
pandemic, epidemic, or bioterrorism event. 28362

**Sec. 3701.40.** The ~~public~~ director of health council shall by 28363  
rule prescribe minimum standards for the maintenance and operation 28364  
of hospitals and medical facilities which shall receive federal 28365  
aid for construction under the state plan provided for by section 28366  
3701.39 of the Revised Code. 28367

Boards of trustees or directors of institutions required to 28368  
comply with sections 3701.01, 3701.04, 3701.08, 3701.09, and 28369  
3701.37 to 3701.45 of the Revised Code shall have the right to 28370

select the professional staff members of such institutions and to 28371  
select and employ interns, nurses, and other personnel, and no 28372  
rules, regulations, or standards of the director of health ~~or the~~ 28373  
~~public health council~~ adopted or promulgated severally or jointly 28374  
shall be valid which, if enforced, would interfere in such 28375  
selection or employment. 28376

The director of health may petition the common pleas court of 28377  
the county in which any hospital or medical facility is located 28378  
for an order enjoining any person, firm, partnership, association, 28379  
corporation, or other entity, private or public, from operating a 28380  
hospital or medical facility in violation of any rules adopted 28381  
under this section. Irrespective of any other remedy the director 28382  
may have in law or equity the court has jurisdiction to grant such 28383  
injunctive relief upon a showing that the respondent named in the 28384  
petition is operating in violation of such rules. 28385

**Sec. 3701.503.** As used in sections 3701.504 to 3701.509 of 28386  
the Revised Code: 28387

(A) "Parent" means either parent, unless the parents are 28388  
separated or divorced or their marriage has been dissolved or 28389  
annulled, in which case "parent" means the parent who is the 28390  
residential parent and legal custodian. 28391

(B) "Guardian" has the same meaning as in section 2111.01 of 28392  
the Revised Code. 28393

(C) "Custodian" means, except as used in division (A) of this 28394  
section, a government agency or an individual, other than the 28395  
parent or guardian, with legal or permanent custody of a child as 28396  
defined in section 2151.011 of the Revised Code. 28397

(D) "Hearing screening" means the identification of newborns 28398  
and infants who may have a hearing impairment, through the use of 28399  
a physiologic test. 28400

(E) "Hearing evaluation" means evaluation through the use of 28401  
audiological procedures by an audiologist or physician. 28402

(F) "Hearing impairment" means a loss of hearing in one or 28403  
both ears in the frequency region important for speech recognition 28404  
and comprehension. 28405

(G) "Newborn" means a child who is less than thirty days old. 28406

(H) "Infant" means a child who is at least thirty days but 28407  
less than twenty-four months old. 28408

(I) "Freestanding birthing center" has the same meaning as in 28409  
section ~~3702.51~~ 3702.141 of the Revised Code. 28410

(J) "Physician" means an individual authorized under Chapter 28411  
4731. of the Revised Code to practice medicine and surgery or 28412  
osteopathic medicine and surgery. 28413

(K) "Audiologist" means an individual authorized under 28414  
section 4753.07 of the Revised Code to practice audiology. 28415

(L) "Hospital" means a hospital that has a maternity unit or 28416  
newborn nursery. 28417

(M) "Maternity unit" means any unit or place in a hospital 28418  
where women are regularly received and provided care during all or 28419  
part of the maternity cycle, except that "maternity unit" does not 28420  
include an emergency department or similar place dedicated to 28421  
providing emergency health care. 28422

(N) "Board of health" means the board of health of a city or 28423  
general health district or the authority having the duties of a 28424  
board of health under section 3709.05 of the Revised Code. 28425

**Sec. 3701.507.** (A) To assist in implementing sections 28426  
3701.503 to 3701.509 of the Revised Code, the medically 28427  
handicapped children's medical advisory council created in section 28428  
3701.025 of the Revised Code shall appoint a permanent infant 28429

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| hearing screening subcommittee. The subcommittee shall consist of | 28430 |
| the following members:  | 28431 |
| (1) One otolaryngologist;   | 28432 |
| (2) One neonatologist;  | 28433 |
| (3) One pediatrician;   | 28434 |
| (4) One neurologist;  | 28435 |
| (5) One hospital administrator;                                   | 28436 |
| (6) Two or more audiologists who are experienced in infant        | 28437 |
| hearing screening and evaluation;                                 | 28438 |
| (7) One speech-language pathologist licensed under section        | 28439 |
| 4753.07 of the Revised Code;                                      | 28440 |
| (8) Two persons who are each a parent of a hearing-impaired       | 28441 |
| child;  | 28442 |
| (9) One geneticist;   | 28443 |
| (10) One epidemiologist;  | 28444 |
| (11) One adult who is deaf or hearing impaired;                   | 28445 |
| (12) One representative from an organization for the deaf or      | 28446 |
| hearing impaired;   | 28447 |
| (13) One family advocate;   | 28448 |
| (14) One nurse from a well-baby neonatal nursery;                 | 28449 |
| (15) One nurse from a special care neonatal nursery;              | 28450 |
| (16) One teacher of the deaf who works with infants and           | 28451 |
| toddlers;   | 28452 |
| (17) One representative of the health insurance industry;         | 28453 |
| (18) One representative of the bureau for children with           | 28454 |
| medical handicaps;  | 28455 |
| (19) One representative of the department of education;           | 28456 |

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| (20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid;  | 28457<br>28458                   |
| (21) Any other person the advisory council appoints.  | 28459                            |
| (B) The infant hearing subcommittee shall:  | 28460                            |
| (1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code;  | 28461<br>28462<br>28463          |
| (2) Advise and make recommendations regarding proposed rules prior to their adoption by the <del>public health council</del> <u>director</u> under section 3701.508 of the Revised Code;                              | 28464<br>28465<br>28466          |
| (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: | 28467<br>28468<br>28469<br>28470 |
| (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;                          | 28471<br>28472<br>28473<br>28474 |
| (b) Identification of locations where hearing evaluations may be conducted;   | 28475<br>28476                   |
| (c) Recommendations for methods and techniques of hearing screening and hearing evaluation;   | 28477<br>28478                   |
| (d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;   | 28479<br>28480                   |
| (e) Maintenance of a register of newborns and infants who do not pass the hearing screening;  | 28481<br>28482                   |
| (f) Preparation of the information required by section 3701.506 of the Revised Code <del>and any other information the public health council requires the department of health to provide.</del>                      | 28483<br>28484<br>28485          |

Sec. 3701.508. (A) The ~~public director of health council~~ 28486  
shall adopt rules governing the statewide hearing screening, 28487  
tracking, and early intervention program established under section 28488  
3701.504 of the Revised Code, including rules that do all of the 28489  
following: 28490

(1) Specify how hospitals and freestanding birthing centers 28491  
are to comply with the requirements of section 3701.505 of the 28492  
Revised Code, including methods to be used for hearing screening, 28493  
except that with regard to the physiologic equipment to be used 28494  
for hearing screening, the rules may require only that the 28495  
equipment be capable of giving reliable results and may not 28496  
specify particular equipment or a particular type of equipment; 28497

(2) Provide that no newborn or infant shall be required to 28498  
undergo a hearing screening if the parent, guardian, or custodian 28499  
of the newborn or infant objects on the grounds that the screening 28500  
conflicts with the parent's, guardian's, or custodian's religious 28501  
tenets and practices; 28502

(3) Provide for situations in which the parent, guardian, or 28503  
custodian of a newborn or infant objects to a hearing screening 28504  
for reasons other than religious tenets and practices; 28505

(4) Specify how the department of health will determine 28506  
whether a person is financially unable to pay for a hearing 28507  
screening and define "third-party payer" for the purpose of 28508  
reimbursement of hearing screening by the department under section 28509  
3701.505 of the Revised Code; 28510

(5) Specify an inexpensive and efficient format and 28511  
procedures for the submission of hearing screening information 28512  
from hospitals and freestanding birthing centers to the department 28513  
of health; 28514

(6) Specify a procedure whereby the department may conduct 28515

timely reviews of hearing screening information submissions for 28516  
purposes of quality assurance, training, and disease prevention 28517  
and control; 28518

(7) Specify any additional information that hospitals and 28519  
freestanding birthing centers are to provide to the medically 28520  
handicapped children's medical advisory council's infant hearing 28521  
screening subcommittee under section 3701.509 of the Revised Code. 28522

(B) In addition to the rules adopted under division (A) of 28523  
this section, the ~~council~~ director shall adopt rules that specify 28524  
the training that must be completed by persons who will conduct 28525  
hearing screenings. In adopting these rules, the ~~council~~ director 28526  
shall consider incorporating cost-saving training methods, 28527  
including computer-assisted learning and on-site training. Neither 28528  
the rules nor the director of health may establish a minimum 28529  
educational level for persons conducting hearing screenings. 28530

(C) All rules adopted under this section shall be adopted in 28531  
accordance with Chapter 119. of the Revised Code and shall be 28532  
adopted so as to take effect not later than six months after ~~the~~ 28533  
~~effective date of this section~~ August 1, 2002. 28534

**Sec. 3701.509.** (A) The department of health shall develop a 28535  
mechanism to analyze and interpret the hearing screening 28536  
information to be reported under division (B) of this section. The 28537  
department shall notify all hospitals and freestanding birthing 28538  
centers subject to the reporting requirements of the date the 28539  
department anticipates that the mechanism will be complete. After 28540  
the mechanism is complete, the department shall notify each 28541  
hospital and freestanding birthing center subject to the reporting 28542  
requirement of the date by which the hospital or center must 28543  
submit its first report. 28544

(B) Subject to division (A) of this section and in accordance 28545  
with rules adopted by the ~~public~~ director of health ~~council~~ under 28546

section 3701.508 of the Revised Code, each hospital and 28547  
freestanding birthing center that has conducted a hearing 28548  
screening required by section 3701.505 of the Revised Code shall 28549  
provide to the department of health for use by the medically 28550  
handicapped children's medical advisory council's infant hearing 28551  
screening subcommittee information specifying all of the 28552  
following: 28553

(1) The number of newborns born in the hospital or 28554  
freestanding birthing center and the number of newborns and 28555  
infants not screened because they were transferred to another 28556  
hospital; 28557

(2) The number of newborns and infants referred to the 28558  
hospital or freestanding birthing center for a hearing screening 28559  
and the number of those newborns and infants who received a 28560  
hearing screening; 28561

(3) The number of newborns and infants who did not pass the 28562  
hearing screenings conducted by the hospital or freestanding 28563  
birthing center; 28564

(4) Any other information concerning the program established 28565  
under section 3701.504 of the Revised Code. 28566

(C) The department of health shall conduct a timely review of 28567  
the information submitted by hospitals and freestanding birthing 28568  
centers in accordance with rules adopted by the ~~public health~~ 28569  
~~council~~ director under section 3701.508 of the Revised Code. 28570

(D) The infant hearing screening subcommittee, with the 28571  
support of the department of health, shall compile and summarize 28572  
the information submitted to the department by hospitals and 28573  
freestanding birthing centers under division (B) of this section. 28574  
Beginning with the first year after the mechanism developed under 28575  
division (A) of this section is complete, the subcommittee shall 28576  
annually prepare and transmit a report to the director of health, 28577

the speaker of the house of representatives, and the president of 28578  
the senate. The council shall make the report available to the 28579  
public. 28580

(E) The department and all members of the subcommittee shall 28581  
maintain the confidentiality of patient-identifying information 28582  
submitted under division (B) of this section and section 3701.505 28583  
of the Revised Code. The information is not a public record under 28584  
section 149.43 of the Revised Code, except to the extent that the 28585  
information is used in preparing reports under this section. 28586

Nothing in this division prohibits the department from 28587  
providing patient-identifying information to other entities as it 28588  
considers necessary to implement the statewide tracking and early 28589  
intervention components of the program established under section 28590  
3701.504 of the Revised Code. Any entity that receives 28591  
patient-identifying information from the department shall maintain 28592  
the confidentiality of the information. 28593

**Sec. 3701.57.** All prosecutions and proceedings by the 28594  
department of health for the violation of sections 3701.01 to 28595  
3701.56, 3705.01 to 3705.29, 3707.06, 3709.01 to 3709.04, 3709.07 28596  
to 3709.11, 3709.13, 3709.17, 3709.18, and 3709.21 to 3709.36 of 28597  
the Revised Code, or for the violation of any of the orders or 28598  
rules of the department, shall be instituted by the director of 28599  
health. Except as provided in division (C) of section 3701.571 of 28600  
the Revised Code, all fines or judgments the department collects 28601  
shall be paid into the state treasury to the credit of the general 28602  
revenue fund. 28603

The director of health, the board of health of a general or 28604  
city health district, or any person charged with enforcing the 28605  
rules of the department of health as provided in section 3701.56 28606  
of the Revised Code may petition the court of common pleas for 28607  
injunctive or other appropriate relief requiring any person 28608

violating a rule adopted by ~~the public health council under~~ 28609  
~~section 3701.34 of the Revised Code~~ or any order issued by the 28610  
director of health under this chapter to comply with such rule or 28611  
order. The court of common pleas of the county in which the 28612  
offense is alleged to be occurring may grant such injunctive or 28613  
other appropriate relief as the equities of the case require. 28614

**Sec. 3701.63.** (A) As used in this section and section 3701.64 28615  
of the Revised Code: 28616

(1) "Child day-care center," "type A family day-care home," 28617  
and "certified type B family day-care home" have the same meanings 28618  
as in section 5104.01 of the Revised Code. 28619

(2) "Child care facility" means a child day-care center, a 28620  
type A family day-care home, or a certified type B family day-care 28621  
home. 28622

(3) "Freestanding birthing center" has the same meaning as in 28623  
section ~~3702.51~~ 3702.141 of the Revised Code. 28624

(4) "Hospital" means a hospital classified pursuant to rules 28625  
adopted under section 3701.07 of the Revised Code as a general 28626  
hospital or children's hospital. 28627

(5) "Maternity unit" means any unit or place in a hospital 28628  
where women are regularly received and provided care during all or 28629  
part of the maternity cycle, except that "maternity unit" does not 28630  
include an emergency department or similar place dedicated to 28631  
providing emergency health care. 28632

(6) "Parent" means either parent, unless the parents are 28633  
separated or divorced or their marriage has been dissolved or 28634  
annulled, in which case "parent" means the parent who is the 28635  
residential parent and legal custodian of the child. "Parent" also 28636  
means a prospective adoptive parent with whom a child is placed. 28637

(7) "Shaken Baby Syndrome" means signs and symptoms, 28638

including, but not limited to, retinal hemorrhages in one or both 28639  
eyes, subdural hematoma, or brain swelling, resulting from the 28640  
violent shaking or the shaking and impacting of the head of an 28641  
infant or small child. 28642

(B) The director of health shall establish the shaken baby 28643  
syndrome education program by doing all of the following: 28644

(1) By not later than one year after February 29, 2008, 28645  
developing educational materials that present readily 28646  
comprehensible information on shaken baby syndrome; 28647

(2) Making available on the department of health web site in 28648  
an easily accessible format the educational materials developed 28649  
under division (B)(1) of this section; 28650

(3) Beginning in 2009, annually assessing the effectiveness 28651  
of the shaken baby syndrome education program by evaluating the 28652  
reports received pursuant to section 5101.135 of the Revised Code. 28653

(C) In meeting the requirements under division (B) of this 28654  
section, the director shall not develop educational materials that 28655  
will impose an administrative or financial burden on any of the 28656  
entities or persons listed in section 3701.64 of the Revised Code. 28657

**Sec. 3701.74.** (A) As used in this section and section 28658  
3701.741 of the Revised Code: 28659

(1) "Ambulatory care facility" means a facility that provides 28660  
medical, diagnostic, or surgical treatment to patients who do not 28661  
require hospitalization, including a dialysis center, ambulatory 28662  
surgical facility, cardiac catheterization facility, diagnostic 28663  
imaging center, extracorporeal shock wave lithotripsy center, home 28664  
health agency, inpatient hospice, birthing center, radiation 28665  
therapy center, emergency facility, and an urgent care center. 28666  
"Ambulatory care facility" does not include the private office of 28667  
a physician or dentist, whether the office is for an individual or 28668

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| group practice.   | 28669                            |
| (2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.   | 28670<br>28671                   |
| (3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.  | 28672<br>28673<br>28674          |
| (4) "Health care practitioner" means all of the following:  | 28675                            |
| (a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;   | 28676<br>28677                   |
| (b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;  | 28678<br>28679                   |
| (c) An optometrist licensed under Chapter 4725. of the Revised Code;  | 28680<br>28681                   |
| (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; | 28682<br>28683<br>28684<br>28685 |
| (e) A pharmacist licensed under Chapter 4729. of the Revised Code;  | 28686<br>28687                   |
| (f) A physician;  | 28688                            |
| (g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;  | 28689<br>28690                   |
| (h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;  | 28691<br>28692                   |
| (i) A psychologist licensed under Chapter 4732. of the Revised Code;  | 28693<br>28694                   |
| (j) A chiropractor;   | 28695                            |
| (k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;  | 28696<br>28697                   |

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| (l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;  | 28698<br>28699   |
| (m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;   | 28700<br>28701   |
| (n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;  | 28702<br>28703   |
| (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;  | 28704<br>28705<br>28706<br>28707                                     |
| (p) A dietitian licensed under Chapter 4759. of the Revised Code;   | 28708<br>28709   |
| (q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;   | 28710<br>28711   |
| (r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.  | 28712<br>28713<br>28714  |
| (5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.  | 28715<br>28716<br>28717  |
| (6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.  | 28718<br>28719   |
| (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; <del>an adult care</del> <u>a residential facility, as defined in licensed under section 5119.70 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults</u> ; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section | 28720<br>28721<br>28722<br>28723<br>28724<br>28725<br>28726<br>28727 |

5111.20 of the Revised Code; a facility or portion of a facility 28728  
certified as a skilled nursing facility under Title XVIII of the 28729  
"Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as 28730  
amended. 28731

(8) "Medical record" means data in any form that pertains to 28732  
a patient's medical history, diagnosis, prognosis, or medical 28733  
condition and that is generated and maintained by a health care 28734  
provider in the process of the patient's health care treatment. 28735

(9) "Medical records company" means a person who stores, 28736  
locates, or copies medical records for a health care provider, or 28737  
is compensated for doing so by a health care provider, and charges 28738  
a fee for providing medical records to a patient or patient's 28739  
representative. 28740

(10) "Patient" means either of the following: 28741

(a) An individual who received health care treatment from a 28742  
health care provider; 28743

(b) A guardian, as defined in section 1337.11 of the Revised 28744  
Code, of an individual described in division (A)(10)(a) of this 28745  
section. 28746

(11) "Patient's personal representative" means a minor 28747  
patient's parent or other person acting in loco parentis, a 28748  
court-appointed guardian, or a person with durable power of 28749  
attorney for health care for a patient, the executor or 28750  
administrator of the patient's estate, or the person responsible 28751  
for the patient's estate if it is not to be probated. "Patient's 28752  
personal representative" does not include an insurer authorized 28753  
under Title XXXIX of the Revised Code to do the business of 28754  
sickness and accident insurance in this state, a health insuring 28755  
corporation holding a certificate of authority under Chapter 1751. 28756  
of the Revised Code, or any other person not named in this 28757  
division. 28758

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 28759  
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(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery. 28761  
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(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record. 28765  
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(B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record. 28768  
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(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3701.77. (A) The department of health may establish, promote, and maintain a lupus education and awareness program with an emphasis on at-risk communities to raise public awareness, educate consumers, and educate and train health professionals, human services providers, and other audiences.

(B) The department, in creating and implementing the program, may do all of the following:

(1) Provide sufficient staff and appropriate training to implement the program;

(2) Establish a grant program to support nonprofit voluntary health organizations with expertise in lupus to increase public awareness and enhance health professional education and understanding of the symptoms and consequences of lupus and the populations most at risk;

(3) Establish an intergovernmental council and advisory panel to oversee the implementation of the program;

(4) Identify the appropriate entities to carry out the

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| <u>program;</u>  | 28821 |
| <u>(5) Base the program on the most current scientific</u>                 | 28822 |
| <u>information and findings;</u>   | 28823 |
| <u>(6) Work with government entities, community and business</u>           | 28824 |
| <u>leaders, community organizations, health and human services</u>         | 28825 |
| <u>providers, and national, state, and local lupus organizations,</u>      | 28826 |
| <u>such as the lupus foundation of America, inc., to coordinate</u>        | 28827 |
| <u>efforts to maximize state resources in the areas of lupus</u>           | 28828 |
| <u>education and awareness;</u>  | 28829 |
| <u>(7) Identify and use other successful lupus education and</u>           | 28830 |
| <u>awareness programs and procure related materials and services from</u>  | 28831 |
| <u>organizations with appropriate expertise and knowledge of lupus.</u>    | 28832 |
| <u>(C) The department may accept gifts, grants, and donations</u>          | 28833 |
| <u>from the federal government, foundations, organizations, medical</u>    | 28834 |
| <u>schools, and other entities for fulfilling the obligations of the</u>   | 28835 |
| <u>program.</u>  | 28836 |
| <u>(D) The department may seek any federal waiver that may be</u>          | 28837 |
| <u>necessary to maximize funds from the federal government to</u>          | 28838 |
| <u>implement the program.</u>  | 28839 |
| <b><u>Sec. 3701.771. (A)(1) The department of health may conduct a</u></b> | 28840 |
| <b><u>needs assessment to identify all of the following:</u></b>           | 28841 |
| <u>(a) The level of statewide health professional and public</u>           | 28842 |
| <u>awareness about lupus;</u>  | 28843 |
| <u>(b) The existence of lupus education, awareness, and</u>                | 28844 |
| <u>treatment programs and related technical assistance available in</u>    | 28845 |
| <u>the state and nationwide;</u>   | 28846 |
| <u>(c) The lupus-related educational and support service needs</u>         | 28847 |
| <u>of health care providers in the state, including physicians,</u>        | 28848 |
| <u>nurses, health plans, and other health professionals and health</u>     | 28849 |
| <u>care entities;</u>  | 28850 |

(d) The needs of people with lupus, their families, and caregivers, including health care providers, physicians, nurses, health plans, and other health professionals and health care entities; 28851  
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(e) The services available to individuals with lupus, including the existence and availability of lupus treatment and specialty care, lupus support groups, and other related care and management services. 28855  
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(2) Based on the needs assessment, the department may develop and maintain a directory of lupus-related services and health care providers with specialization in services to diagnose and treat lupus. The department may disseminate the directory to all stakeholders, including individuals with lupus, families, representatives from voluntary organizations, health professionals, health plans, and state and local health agencies. 28859  
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(B) The department may undertake activities to raise public awareness about the symptoms of lupus, personal risk factors, and options for diagnosing and treating the disease with a particular focus on populations at elevated risk for lupus. Such activities may include, but are not limited to, the following: 28866  
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(1) Implementing a statewide campaign to educate the general public about lupus by utilizing print, radio, and television public service announcements, advertisements, posters, and other materials; 28871  
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(2) Disseminating health information and conducting individual risk assessments at public events, such as health fairs and community forums sponsored by the department; 28875  
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(3) Distributing information through local health departments; schools; area agencies on aging; employer wellness programs; physicians and other health professionals; hospitals and health plans; health, nonprofit, and community-based 28878  
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organizations; and regional offices of the department. 28882

Sec. 3701.772. (A) The department of health may establish a 28883  
program to award grants to educate and train physicians, health 28884  
professionals, and other service providers on the most current, 28885  
accurate scientific and medical information on lupus diagnosis, 28886  
treatment, and therapeutic decision-making, including medical best 28887  
practices for detecting and treating the disease in special 28888  
populations, risks and benefits of medications, and research 28889  
advances. If a program to award grants is established, the 28890  
department shall allocate the total amount available for the 28891  
grants in amounts that are proportionate to the populations of the 28892  
areas served by the Ohio chapters of the lupus foundation of 28893  
America, inc. 28894

To be eligible for a grant, an applicant must be affiliated 28895  
with the foundation. 28896

(B) Each grant recipient shall do all of the following: 28897

(1) Develop health professional educational materials that 28898  
identify the latest scientific and medical information and 28899  
clinical applications; 28900

(2) Work to increase knowledge among physicians, nurses, and 28901  
other health and human services professionals about the importance 28902  
of lupus diagnosis, treatment, and rehabilitation; 28903

(3) Use available curricula for training of health and human 28904  
services providers and community leaders on lupus detection and 28905  
treatment; 28906

(4) Support continuing medical education programs in all 28907  
geographical areas of the state presented by the leading state 28908  
academic institutions by providing the most current information; 28909

(5) Provide workshops and seminars for in-depth professional 28910  
development in the field of care and management of lupus patients 28911

to bring the latest information on clinical advances to health care providers; 28912  
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(6) Conduct statewide conferences on lupus at appropriate intervals; 28914  
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(7) Prepare an annual report that describes the recipient's use of the grant and submit a copy of the report to the department. 28916  
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**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. 28919  
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(B) The council shall do all of the following: 28928

(1) Provide oversight to the lupus education and awareness program, as well as other lupus programs conducted by the department; 28929  
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(2) Develop and issue grant applications and policies and procedures for programs aimed at health professionals and the public; 28932  
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(3) Establish a mechanism for sharing information on lupus among all officials and employees involved in carrying out lupus-related programs; 28935  
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(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; 28938  
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(5) Prepare an annual report that describes educational initiatives on lupus sponsored by the state and make recommendations for new educational initiatives on lupus. The report shall be transmitted to the general assembly and be made available to the public. 28942  
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**Sec. 3701.774.** (A) If the department of health establishes the advisory panel as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall coordinate the panel to provide input and counsel regarding the lupus education and awareness program. 28947  
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(B) If the panel is established, all of the following apply: 28952

(1) Individuals and organizations may submit to the department nominations for appointments to the panel. Each panel member shall have familiarity with lupus and issues that surround lupus. 28953  
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(2) The panel shall be comprised of the following members to be appointed by the director of health: 28957  
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(a) At least three individuals with lupus; 28959

(b) Not more than two representatives from the department; 28960

(c) At least five individuals from lupus nonprofit health organizations, with preference given to individuals from the lupus foundation of America, inc.; 28961  
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(d) At least five scientists or clinicians with experience in lupus who participate in various fields of scientific endeavor, including the fields of biomedical research, social, translational, behavioral and epidemiological research, and public health. 28964  
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(3) The department shall select from among the panel members one member to serve as chairperson of the panel. 28969  
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Members of the panel shall serve terms of two years each. 28971  
Members may be named to serve a total of two terms and terms may 28972  
be consecutive. 28973

A majority of the members of the panel constitutes a quorum. 28974  
A majority vote of a quorum is required for any official action of 28975  
the panel. 28976

The panel shall meet at the call of the panel chairperson, 28977  
but not fewer than four times per year. 28978

All members shall serve without compensation, but may be 28979  
reimbursed for actual, necessary expenses incurred in the 28980  
performance of their duties. 28981

(4) The panel shall be responsible for advising the 28982  
department and the intergovernmental council with respect to the 28983  
implementation of the lupus education and awareness program. The 28984  
department shall consult with the advisory panel on a regular 28985  
basis. 28986

**Sec. 3701.775.** There is hereby created in the state treasury 28987  
the lupus education and awareness program fund. If the department 28988  
of health establishes the lupus education and awareness program, 28989  
as authorized under section 3701.77 of the Revised Code, all 28990  
moneys accepted under division (C) of that section shall be 28991  
credited to the fund. Money in the fund shall be used solely to 28992  
administer the lupus education and awareness program. 28993

**Sec. 3701.87.** The governor may authorize the department of 28994  
health to enter into an agreement on behalf of the state with the 28995  
United States secretary of health, ~~education,~~ and ~~welfare~~ human 28996  
services whereby the department may serve as the agency for review 28997  
of proposed capital expenditures by health care facilities 28998  
pursuant to section 1122 of the "Social Security Act" as amended 28999  
by Public Law 92-603, 42 U.S.C. 1320a-1, and the regulations 29000

adopted thereunder. Such agreement shall be subject to and include 29001  
the following terms and conditions: 29002

(A) All applications, notices, requests for information, and 29003  
other official communications shall be on written forms prescribed 29004  
by ~~and approved by~~ the director of health ~~and approved by the~~ 29005  
~~public health council.~~ 29006

(B) The ~~council~~ director, subject to Chapter 119. of the 29007  
Revised Code, shall propose, modify, amend, and adopt rules, 29008  
standards, guidelines, and official policies which are consistent 29009  
with federal law, as it deems necessary to implement the capital 29010  
expenditures review program. 29011

(C) The director shall make all findings and recommendations 29012  
required by federal law and shall give due consideration to the 29013  
findings, reviews, and comments of areawide health planning 29014  
agencies performing reviews pursuant to section 314 (b)(2) of the 29015  
"Public Health Service Act," 42 U.S.C. 246, or the appropriate 29016  
health systems agency. 29017

(D) The findings and recommendations of the director shall be 29018  
in writing and shall clearly specify the provisions of the state 29019  
health facilities plan with which any application is found to be 29020  
inconsistent. Any applicant adversely affected by the findings and 29021  
recommendations of the director may request a hearing before the 29022  
~~council~~ director pursuant to Chapter 119. of the Revised Code. The 29023  
findings and recommendations of the ~~council~~ director are an 29024  
adjudication as defined in Chapter 119. of the Revised Code and 29025  
may be appealed as provided in that chapter. 29026

**Sec. 3701.881.** (A) As used in this section: 29027

(1) "Applicant" means ~~both of the following:~~ 29028

~~(a) A~~ a person who is under final consideration for 29029  
~~appointment to or~~ employment with a home health agency in a 29030

~~position as a person responsible for the care, custody, or control of a child;~~ 29031  
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~~(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 older 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.~~ 29033  
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(2) "Criminal records check" and "older adult" have has the same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 29042  
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(3) "Direct care" means any of the following: 29044

(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; 29045  
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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; 29048  
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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. 29052  
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(4) "Disqualifying offense" means any of the following: 29055

(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, 29056  
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|---|-------|
| <u>2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321,</u>    | 29061 |
| <u>2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22,</u>   | 29062 |
| <u>2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13,</u>     | 29063 |
| <u>2913.02, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32,</u>     | 29064 |
| <u>2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45,</u>    | 29065 |
| <u>2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02,</u>     | 29066 |
| <u>2917.03, 2917.12, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22,</u>   | 29067 |
| <u>2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21,</u>     | 29068 |
| <u>2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12,</u>    | 29069 |
| <u>2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32,</u> | 29070 |
| <u>2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06,</u>    | 29071 |
| <u>2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u>     | 29072 |
| <u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u>         | 29073 |
| <u>(b) One or more violations of felonious sexual penetration</u>         | 29074 |
| <u>under former section 2907.12 of the Revised Code;</u>                  | 29075 |
| <u>(c) One or more violations of section 2905.04 of the Revised</u>       | 29076 |
| <u>Code as it existed prior to July 1, 1996;</u>                          | 29077 |
| <u>(d) One violation of section 2925.11 of the Revised Code when</u>      | 29078 |
| <u>the violation is not a minor drug possession offense;</u>              | 29079 |
| <u>(e) Two or more violations of section 2925.11 of the Revised</u>       | 29080 |
| <u>Code, regardless of whether any of the violations are a minor drug</u> | 29081 |
| <u>possession offense;</u>  | 29082 |
| <u>(f) One or more violations of section 2923.01, 2923.02, or</u>         | 29083 |
| <u>2923.03 of the Revised Code when the underlying offense that is</u>    | 29084 |
| <u>the object of the conspiracy, attempt, or complicity is one of the</u> | 29085 |
| <u>offenses listed in divisions (A)(3)(a) to (e) of this section;</u>     | 29086 |
| <u>(g) One or more violations of an existing or former municipal</u>      | 29087 |
| <u>ordinance or law of this state, any other state, or the United</u>     | 29088 |
| <u>States that is substantially equivalent to any of the offenses</u>     | 29089 |
| <u>listed in divisions (A)(3)(a) to (f) of this section.</u>              | 29090 |
| <u>(5) "Employee" means a person employed by a home health</u>            | 29091 |

agency in a full-time, part-time, or temporary position that 29092  
involves providing direct care to an individual and a person who 29093  
works in such a position due to being referred to a home health 29094  
agency by an employment service. 29095

(6) "Home health agency" means a person or government entity, 29096  
other than a nursing home, residential care facility, or hospice 29097  
care program, that has the primary function of providing any of 29098  
the following services to a patient at a place of residence used 29099  
as the patient's home: 29100

- (a) Skilled nursing care; 29101
- (b) Physical therapy; 29102
- (c) Speech-language pathology; 29103
- (d) Occupational therapy; 29104
- (e) Medical social services; 29105
- (f) Home health aide services. 29106

~~(4)~~(7) "Home health aide services" means any of the following 29107  
services provided by an ~~individual employed with or contracted for~~ 29108  
~~by~~ employee of a home health agency: 29109

- (a) Hands-on bathing or assistance with a tub bath or shower; 29110
- (b) Assistance with dressing, ambulation, and toileting; 29111
- (c) Catheter care but not insertion; 29112
- (d) Meal preparation and feeding. 29113

~~(5)~~(8) "Hospice care program" has the same meaning as in 29114  
section 3712.01 of the Revised Code. 29115

~~(6)~~(9) "Medical social services" means services provided by a 29116  
social worker under the direction of a patient's attending 29117  
physician. 29118

~~(7)~~(10) "Minor drug possession offense" has the same meaning 29119

as in section 2925.01 of the Revised Code. 29120

~~(8)~~(11) "Nursing home," "residential care facility," and 29121  
"skilled nursing care" have the same meanings as in section 29122  
3721.01 of the Revised Code. 29123

~~(9)~~(12) "Occupational therapy" has the same meaning as in 29124  
section 4755.04 of the Revised Code. 29125

~~(10)~~(13) "Physical therapy" has the same meaning as in 29126  
section 4755.40 of the Revised Code. 29127

~~(11)~~(14) "Social worker" means a person licensed under 29128  
Chapter 4757. of the Revised Code to practice as a social worker 29129  
or independent social worker. 29130

~~(12)~~(15) "Speech-language pathology" has the same meaning as 29131  
in section 4753.01 of the Revised Code. 29132

(B) No home health agency shall employ an applicant or 29133  
continue to employ an employee in a position that involves 29134  
providing direct care to an individual if any of the following 29135  
apply: 29136

(1) A review of the databases listed in division (D) of this 29137  
section reveals any of the following: 29138

(a) That the applicant or employee is included in one or more 29139  
of the databases listed in divisions (D)(1) to (5) of this 29140  
section; 29141

(b) That there is in the state nurse aide registry 29142  
established under section 3721.32 of the Revised Code a statement 29143  
detailing findings by the director of health that the applicant or 29144  
employee neglected or abused a long-term care facility or 29145  
residential care facility resident or misappropriated property of 29146  
such a resident; 29147

(c) That the applicant or employee is included in one or more 29148  
of the databases, if any, specified in rules adopted under this 29149

section and the rules prohibit the home health agency from 29150  
employing an applicant or continuing to employ an employee 29151  
included in such a database in a position that involves providing 29152  
direct care to an individual. 29153

(2) After the applicant or employee is provided, pursuant to 29154  
division (E)(2)(a) of this section, a copy of the form prescribed 29155  
pursuant to division (C)(1) of section 109.572 of the Revised Code 29156  
and the standard impression sheet prescribed pursuant to division 29157  
(C)(2) of that section, the applicant or employee fails to 29158  
complete the form or provide the applicant's or employee's 29159  
fingerprint impressions on the standard impression sheet. 29160

(3) Except as provided in rules adopted under this section, 29161  
the applicant or employee is found by a criminal records check 29162  
required by this section to have been convicted of, pleaded guilty 29163  
to, or been found eligible for intervention in lieu of conviction 29164  
for a disqualifying offense. 29165

(C) Except as provided by division (F) of this section, the 29166  
chief administrator of a home health agency shall inform each 29167  
applicant of both of the following at the time of the applicant's 29168  
initial application for employment or referral to the home health 29169  
agency by an employment service for a position that involves 29170  
providing direct care to an individual: 29171

(1) That a review of the databases listed in division (D) of 29172  
this section will be conducted to determine whether the home 29173  
health agency is prohibited by division (B)(1) of this section 29174  
from employing the applicant in the position; 29175

(2) That, unless the database review reveals that the 29176  
applicant may not be employed in the position, a criminal records 29177  
check of the applicant will be conducted and the applicant is 29178  
required to provide a set of the applicant's fingerprint 29179  
impressions as part of the criminal records check. 29180

(D) As a condition of employing any applicant in a position 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 29212  
under this section. 29213

(E)(1) Except as provided in division (I) of this section As 29214  
a condition of employing any applicant in a position that involves 29215  
providing direct care to an individual, the chief administrator of 29216  
a home health agency shall request the superintendent of the 29217  
bureau of criminal identification and investigation to conduct a 29218  
criminal records check ~~with respect to each of the~~ applicant. ~~If~~ 29219  
~~the position may involve both responsibility for the care,~~ 29220  
~~eustody, or control of a child and provision of direct care to an~~ 29221  
~~elder adult, the chief administrator shall request that the~~ 29222  
~~superintendent conduct a single criminal records check for the~~ 29223  
~~applicant. If rules adopted under this section so require, the~~ 29224  
chief administrator of a home health agency shall request the 29225  
superintendent to conduct a criminal records check of an employee 29226  
at times specified in the rules as a condition of continuing to 29227  
employ the employee in a position that involves providing direct 29228  
care to an individual. However, the chief administrator is not 29229  
required to request the criminal records check of the applicant or 29230  
the employee if division (F) of this section applies or the home 29231  
health agency is prohibited by division (B)(1) of this section 29232  
from employing the applicant or continuing to employ the employee 29233  
in a position that involves providing direct care to an 29234  
individual. If an applicant or employee for whom a criminal 29235  
records check request is required under by this division section 29236  
does not present proof of having been a resident of this state for 29237  
the five-year period immediately prior to the date upon which the 29238  
criminal records check is requested or does not provide evidence 29239  
that within that five-year period the superintendent has requested 29240  
information about the applicant from the federal bureau of 29241  
investigation in a criminal records check, the chief administrator 29242  
shall request that the superintendent obtain information from the 29243  
federal bureau of investigation as a part of the criminal records 29244

check ~~for the applicant~~. Even if an applicant or employee for whom 29245  
a criminal records check request is required ~~under~~ by this 29246  
~~division~~ section presents proof that the applicant or employee has 29247  
been a resident of this state for that five-year period, the chief 29248  
administrator may request that the superintendent include 29249  
information from the federal bureau of investigation in the 29250  
criminal records check. 29251

(2) ~~Any person required by division (B)(1) of this section to~~ 29252  
~~request a criminal records check~~ The chief administrator shall 29253  
~~provide~~ do all of the following: 29254

(a) Provide to each applicant and employee for whom a 29255  
criminal records check request is required ~~under that division~~ by 29256  
this section a copy of the form prescribed pursuant to division 29257  
(C)(1) of section 109.572 of the Revised Code and a standard 29258  
impression sheet prescribed pursuant to division (C)(2) of that 29259  
~~section 109.572 of the Revised Code, obtain;~~ 29260

(b) Obtain the completed form and standard impression sheet 29261  
from each applicant, ~~and~~ forward employee; 29262

(c) Forward the completed form and standard impression sheet 29263  
to the superintendent ~~of the bureau of criminal identification and~~ 29264  
~~investigation~~ at the time the chief administrator requests a the 29265  
criminal records check ~~pursuant to division (B)(1) of this~~ 29266  
~~section.~~ 29267

(3) ~~An applicant who receives pursuant to division (B)(2) of~~ 29268  
~~this section a copy of the form prescribed pursuant to division~~ 29269  
~~(C)(1) of section 109.572 of the Revised Code and a copy of an~~ 29270  
~~impression sheet prescribed pursuant to division (C)(2) of that~~ 29271  
~~section and who is requested to complete the form and provide a~~ 29272  
~~set of fingerprint impressions shall complete the form or provide~~ 29273  
~~all the information necessary to complete the form and shall~~ 29274  
~~provide the impression sheets with the impressions of the~~ 29275

~~applicant's fingerprints. If an applicant, upon request, fails to 29276  
provide the information necessary to complete the form or fails to 29277  
provide fingerprint impressions, the home health agency shall not 29278  
employ that applicant for any position for which a criminal 29279  
records check is required by division (B)(1) of this section. 29280~~

~~(C)(1) Except as provided in rules adopted by the department 29281  
of health in accordance with division (F) of this section and 29282  
subject to division (C)(3) of this section, no home health agency 29283  
shall employ a person as a person responsible for the care, 29284  
custody, or control of a child if the person previously has been 29285  
convicted of or pleaded guilty to any of the following: 29286~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 29287  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 29288  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 29289  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 29290  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 29291  
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 29292  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 29293  
2925.06, or 3716.11 of the Revised Code, a violation of section 29294  
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 29295  
violation of section 2919.23 of the Revised Code that would have 29296  
been a violation of section 2905.04 of the Revised Code as it 29297  
existed prior to July 1, 1996, had the violation been committed 29298  
prior to that date, a violation of section 2925.11 of the Revised 29299  
Code that is not a minor drug possession offense, or felonious 29300  
sexual penetration in violation of former section 2907.12 of the 29301  
Revised Code; 29302~~

~~(b) A violation of an existing or former law of this state, 29303  
any other state, or the United States that is substantially 29304  
equivalent to any of the offenses listed in division (C)(1)(a) of 29305  
this section. 29306~~

~~(2) Except as provided in rules adopted by the department of 29307~~

~~health in accordance with division (F) of this section and subject 29308  
to division (C)(3) of this section, no home health agency shall 29309  
employ a person in a position that involves providing direct care 29310  
to an older adult if the person previously has been convicted of 29311  
or pleaded guilty to any of the following: 29312~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 29313  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 29314  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 29315  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 29316  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 29317  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 29318  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 29319  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 29320  
2925.22, 2925.23, or 3716.11 of the Revised Code. 29321~~

~~(b) A violation of an existing or former law of this state, 29322  
any other state, or the United States that is substantially 29323  
equivalent to any of the offenses listed in division (C)(2)(a) of 29324  
this section. 29325~~

~~(3)(a) A home health agency shall pay to the bureau of 29326  
criminal identification and investigation the fee prescribed 29327  
pursuant to division (C)(3) of section 109.572 of the Revised Code 29328  
for each criminal records check the agency requests under this 29329  
section. A home health agency may charge an applicant a fee not 29330  
exceeding the amount the agency pays to the bureau under this 29331  
section if both of the following apply: 29332~~

~~(a) The home health agency notifies the applicant at the time 29333  
of initial application for employment of the amount of the fee and 29334  
that, unless the fee is paid, the applicant will not be considered 29335  
for employment. 29336~~

~~(b) The medicaid program established under Chapter 5111. of 29337  
the Revised Code does not reimburse the home health agency for the 29338~~

fee it pays to the bureau under this section. 29339

(F) Divisions (C) to (E) of this section do not apply with 29340  
regard to an applicant or employee if the applicant or employee is 29341  
referred to a home health agency by an employment service that 29342  
supplies full-time, part-time, or temporary staff for positions 29343  
that involve providing direct care to an individual and both of 29344  
the following apply: 29345

(1) The chief administrator of the home health agency 29346  
receives from the employment service confirmation that a review of 29347  
the databases listed in division (D) of this section was conducted 29348  
with regard to the applicant or employee. 29349

(2) The chief administrator of the home health agency 29350  
receives from the employment service, applicant, or employee a 29351  
report of the results of a criminal records check of the applicant 29352  
or employee that has been conducted by the superintendent within 29353  
the one-year period immediately preceding the following: 29354

(a) In the case of an applicant, the date of the applicant's 29355  
referral by the employment service to the home health agency; 29356

(b) In the case of an employee, the date by which the home 29357  
health agency would otherwise have to request a criminal records 29358  
check of the employee under division (E) of this section. 29359

(G)(1) A home health agency may employ conditionally an 29360  
applicant for whom a criminal records check request is required 29361  
under ~~division (B) of~~ by this section as a person responsible for 29362  
the care, custody, or control of a child until the criminal 29363  
records check regarding the applicant required by this section is 29364  
completed and the agency receives before obtaining the results of 29365  
the criminal records check if the agency is not prohibited by 29366  
division (B) of this section from employing the applicant in a 29367  
position that involves providing direct care to an individual and 29368  
either of the following applies: 29369

(a) The chief administrator of the home health agency requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment. 29370  
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(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following: 29374  
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(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant; 29380  
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(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense; 29383  
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(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter; 29387  
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(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the home health agency when the employment service receives the results. 29390  
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(2) If a home health agency employs an applicant conditionally pursuant to division (G)(1)(b) of this section, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the applicant does not qualify for employment, the agency 29394  
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shall release the applicant from employment unless the agency 29401  
chooses to employ the applicant pursuant to division (F) of this 29402  
section. 29403

~~(b)(i) A home health agency may employ conditionally an 29404  
applicant for whom a criminal records check request is required 29405  
under division (B) of this section in a position that involves 29406  
providing direct care to an older adult or in a position that 29407  
involves both responsibility for the care, custody, and control of 29408  
a child and the provision of direct care to older adults prior to 29409  
obtaining the results of a criminal records check regarding the 29410  
individual, provided that the agency shall request a criminal 29411  
records check regarding the individual in accordance with division 29412  
(B)(1) of this section not later than five business days after the 29413  
individual begins conditional employment. In the circumstances 29414  
described in division (I)(2) of this section, a home health agency 29415  
may employ conditionally in a position that involves providing 29416  
direct care to an older adult an applicant who has been referred 29417  
to the home health agency by an employment service that supplies 29418  
full time, part time, or temporary staff for positions involving 29419  
the direct care of older adults and for whom, pursuant to that 29420  
division, a criminal records check is not required under division 29421  
(B) of this section. In the circumstances described in division 29422  
(I)(4) of this section, a home health agency may employ 29423  
conditionally in a position that involves both responsibility for 29424  
the care, custody, and control of a child and the provision of 29425  
direct care to older adults an applicant who has been referred to 29426  
the home health agency by an employment service that supplies 29427  
full time, part time, or temporary staff for positions involving 29428  
both responsibility for the care, custody, and control of a child 29429  
and the provision of direct care to older adults and for whom, 29430  
pursuant to that division, a criminal records check is not 29431  
required under division (B) of this section. 29432~~

~~(ii)(3)~~ A home health agency that employs an individual applicant conditionally ~~under authority of~~ pursuant to division ~~(C)(3)(b)(i)(G)(1)(a) or (b)~~ of this section shall terminate the individual's applicant's employment if the results of the criminal records check requested under division ~~(B)(1) of this section or described in division (I)(2) or (4) of this section,~~ other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the individual was employed conditionally in a position that involves the provision of direct care to older adults and the results indicate that the individual applicant has been convicted of ~~or,~~ pleaded guilty to any of the offenses listed or described in division ~~(C)(2) of this section,~~ or if the individual was employed 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 and the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division ~~(C)(1) or (2) of this section,~~ or been found eligible for intervention in lieu of conviction for a disqualifying offense, the home health agency shall terminate the individual's applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the individual pursuant to division (F) of this section applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual applicant makes any attempt to deceive the home health agency about the individual's applicant's criminal record.

~~(D)(1)~~ Each home health agency shall pay to the bureau of 29465

~~criminal identification and investigation the fee prescribed 29466  
pursuant to division (C)(3) of section 109.572 of the Revised Code 29467  
for each criminal records check conducted in accordance with that 29468  
section upon the request pursuant to division (B)(1) of this 29469  
section of the chief administrator of the home health agency. 29470~~

~~(2) A home health agency may charge an applicant a fee for 29471  
the costs it incurs in obtaining a criminal records check under 29472  
this section, unless the medical assistance program established 29473  
under Chapter 5111. of the Revised Code reimburses the agency for 29474  
the costs. A fee charged under division (D)(2) of this section 29475  
shall not exceed the amount of fees the agency pays under division 29476  
(D)(1) of this section. If a fee is charged under division (D)(2) 29477  
of this section, the agency shall notify the applicant at the time 29478  
of the applicant's initial application for employment of the 29479  
amount of the fee and that, unless the fee is paid, the agency 29480  
will not consider the applicant for employment. 29481~~

~~(E)(H) The report of any criminal records check conducted by 29482  
the bureau of criminal identification and investigation in 29483  
accordance with section 109.572 of the Revised Code and pursuant 29484  
to a request made under ~~division (B)(1) of this section~~ is not a 29485  
public record for the purposes of section 149.43 of the Revised 29486  
Code and shall not be made available to any person other than the 29487  
following: 29488~~

~~(1) The ~~individual~~ applicant or employee who is the subject 29489  
of the criminal records check or the ~~individual's~~ applicant's or 29490  
employee's representative; 29491~~

~~(2) The home health agency requesting the criminal records 29492  
check or its representative; 29493~~

~~(3) The administrator of any other facility, agency, or 29494  
program that provides direct care to ~~elder adults~~ individuals that 29495  
is owned or operated by the same entity that owns or operates the 29496~~

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| home health agency <u>that requested the criminal records check;</u>   | 29497 |
| (4) <u>The employment service that requested the criminal records check;</u>   | 29498 |
| (5) Any court, hearing officer, or other necessary individual involved in a case dealing with <u>a any of the following:</u>   | 29499 |
| (a) <u>A denial of employment of the applicant or dealing with employment employee;</u>  | 29500 |
| (b) <u>Employment or unemployment benefits of the applicant or employee;</u>   | 29501 |
| <del>(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1), (2), (3), or (4) of this section</del>  | 29502 |
| <u>(c) A civil or criminal action regarding the medicaid program.</u>  | 29503 |
| <del>(F) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the home health agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but who meets standards in regard to rehabilitation set by the department or employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section but meets personal character standards set by the department.</del> | 29504 |
| <del>(G) Any person required by division (B)(1) of this section to request a criminal records check shall inform each person, at the time of initial application for employment that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that</del>   | 29505 |
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~~position.~~ 29528

~~(H)(I)~~ In a tort or other civil action for damages that is 29529  
brought as the result of an injury, death, or loss to person or 29530  
property caused by an ~~individual applicant or employee~~ who a home 29531  
health agency employs in a position that involves providing direct 29532  
care to ~~elder adults~~ an individual, all of the following shall 29533  
apply: 29534

(1) If the home health agency employed the ~~individual~~ 29535  
applicant or employee in good faith and reasonable reliance on the 29536  
report of a criminal records check requested under this section, 29537  
the agency shall not be found negligent solely because of its 29538  
reliance on the report, even if the information in the report is 29539  
determined later to have been incomplete or inaccurate~~+~~. 29540

(2) If the home health agency employed the ~~individual~~ 29541  
applicant in good faith on a conditional basis pursuant to 29542  
division ~~(C)(3)(b)(G)~~ of this section, the agency shall not be 29543  
found negligent solely because it employed the ~~individual~~ 29544  
applicant prior to receiving the report of a criminal records 29545  
check requested under this section~~+~~. 29546

(3) If the home health agency in good faith employed the 29547  
~~individual applicant or employee~~ according to the personal 29548  
character standards established in rules adopted under ~~division~~ 29549  
~~(F)~~ of this section, the agency shall not be found negligent 29550  
solely because the ~~individual prior to being employed applicant or~~ 29551  
employee had been convicted of ~~ex~~, pleaded guilty to ~~an~~, or been 29552  
found eligible for intervention in lieu of conviction for a 29553  
disqualifying offense listed or described in division (C)(1) or 29554  
~~(2) of this section.~~ 29555

~~(I)(1)~~ The chief administrator of a home health agency is not 29556  
required to request that the superintendent of the bureau of 29557  
criminal identification and investigation conduct a criminal 29558

~~records check of an applicant for a position that involves the 29559  
provision of direct care to older adults if the applicant has been 29560  
referred to the agency by an employment service that supplies 29561  
full time, part time, or temporary staff for positions involving 29562  
the direct care of older adults and both of the following apply: 29563~~

~~(a) The chief administrator receives from the employment 29564  
service or the applicant a report of the results of a criminal 29565  
records check regarding the applicant that has been conducted by 29566  
the superintendent within the one year period immediately 29567  
preceding the applicant's referral; 29568~~

~~(b) The report of the criminal records check demonstrates 29569  
that the person has not been convicted of or pleaded guilty to an 29570  
offense listed or described in division (C)(2) of this section, or 29571  
the report demonstrates that the person has been convicted of or 29572  
pleaded guilty to one or more of those offenses, but the home 29573  
health agency chooses to employ the individual pursuant to 29574  
division (F) of this section. 29575~~

~~(2) The chief administrator of a home health agency is not 29576  
required to request that the superintendent of the bureau of 29577  
criminal identification and investigation conduct a criminal 29578  
records check of an applicant for a position that involves 29579  
providing direct care to older adults and may employ the applicant 29580  
conditionally in a position of that nature as described in this 29581  
division, if the applicant has been referred to the agency by an 29582  
employment service that supplies full time, part time, or 29583  
temporary staff for positions involving the direct care of older 29584  
adults and if the chief administrator receives from the employment 29585  
service or the applicant a letter from the employment service that 29586  
is on the letterhead of the employment service, dated, and signed 29587  
by a supervisor or another designated official of the employment 29588  
service and that states that the employment service has requested 29589  
the superintendent to conduct a criminal records check regarding 29590~~

~~the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(2) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.~~

~~(3) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and both of the following apply:~~

~~(a) The chief administrator receives from the employment service or applicant a report of a criminal records check of the type described in division (I)(1)(a) of this section;~~

~~(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) or (2) of this section, or the report demonstrates that the person has been~~

~~convicted of or pleaded guilty to one or more of those offenses, 29623  
but the home health agency chooses to employ the individual 29624  
pursuant to division (F) of this section. 29625~~

~~(4) The chief administrator of a home health agency is not 29626  
required to request that the superintendent of the bureau of 29627  
criminal identification and investigation conduct a criminal 29628  
records check of an applicant for a position that involves both 29629  
responsibility for the care, custody, and control of a child and 29630  
the provision of direct care to older adults and may employ the 29631  
applicant conditionally in a position of that nature as described 29632  
in this division, if the applicant has been referred to the agency 29633  
by an employment service that supplies full time, part time, or 29634  
temporary staff for positions involving both responsibility for 29635  
the care, custody, and control of a child and the direct care of 29636  
older adults and if the chief administrator receives from the 29637  
employment service or the applicant a letter from the employment 29638  
service that is on the letterhead of the employment service, 29639  
dated, and signed by a supervisor or another designated official 29640  
of the employment service and that states that the employment 29641  
service has requested the superintendent to conduct a criminal 29642  
records check regarding the applicant, that the requested criminal 29643  
records check will include a determination of whether the 29644  
applicant has been convicted of or pleaded guilty to any offense 29645  
listed or described in division (C)(1) or (2) of this section, 29646  
that, as of the date set forth on the letter, the employment 29647  
service had not received the results of the criminal records 29648  
check, and that, when the employment service receives the results 29649  
of the criminal records check, it promptly will send a copy of the 29650  
results to the home health agency. If a home health agency employs 29651  
an applicant conditionally in accordance with this division, the 29652  
employment service, upon its receipt of the results of the 29653  
criminal records check, promptly shall send a copy of the results 29654  
to the home health agency, and division (C)(3)(b) of this section 29655~~

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| <del>applies regarding the conditional employment.</del>                  | 29656 |
| <u>(J) The director of health shall adopt rules in accordance</u>         | 29657 |
| <u>with Chapter 119. of the Revised Code to implement this section.</u>   | 29658 |
| <u>(1) The rules may do the following:</u>                                | 29659 |
| <u>(a) Require employees to undergo database reviews and</u>              | 29660 |
| <u>criminal records checks under this section;</u>                        | 29661 |
| <u>(b) If the rules require employees to undergo database</u>             | 29662 |
| <u>reviews and criminal records checks under this section, exempt one</u> | 29663 |
| <u>or more classes of employees from the requirements;</u>                | 29664 |
| <u>(c) For the purpose of division (D)(7) of this section,</u>            | 29665 |
| <u>specify other databases that are to be checked as part of a</u>        | 29666 |
| <u>database review conducted under this section.</u>                      | 29667 |
| <u>(2) The rules shall specify all of the following:</u>                  | 29668 |
| <u>(a) The procedures for conducting database reviews under this</u>      | 29669 |
| <u>section;</u>   | 29670 |
| <u>(b) If the rules require employees to undergo database</u>             | 29671 |
| <u>reviews and criminal records checks under this section, the times</u>  | 29672 |
| <u>at which the database reviews and criminal records checks are to</u>   | 29673 |
| <u>be conducted;</u>  | 29674 |
| <u>(c) If the rules specify other databases to be checked as</u>          | 29675 |
| <u>part of the database reviews, the circumstances under which a home</u> | 29676 |
| <u>health agency is prohibited from employing an applicant or</u>         | 29677 |
| <u>continuing to employ an employee who is found by a database review</u> | 29678 |
| <u>to be included in one or more of those databases;</u>                  | 29679 |
| <u>(d) Circumstances under which a home health agency may employ</u>      | 29680 |
| <u>an applicant or employee who is found by a criminal records check</u>  | 29681 |
| <u>required by this section to have been convicted of, pleaded guilty</u> | 29682 |
| <u>to, or been found eligible for intervention in lieu of conviction</u>  | 29683 |
| <u>for a disqualifying offense but meets personal character</u>           | 29684 |
| <u>standards.</u>   | 29685 |

~~Sec. 185.01~~ 3701.92. As used in ~~this chapter~~ sections  
3701.921 to 3701.929 of the Revised Code:

(A) "Advanced practice nurse" has the same meaning as in  
section 4723.01 of the Revised Code.

~~(B) "Collaboration" has the same meaning as in section~~  
~~4723.01 of the Revised Code.~~

~~(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.~~

(D) "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.

(E) "Patient centered medical home education pilot project"  
means the pilot project established under section ~~185.02~~ 3701.923  
of the Revised Code.

(F) "Physician assistant" has the same meaning as in section  
4730.01 of the Revised Code.

Sec. 3701.921. 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.

To the extent that funds are available, the program shall  
include the patient centered medical home education pilot project

and may include any other pilot projects the director establishes 29715  
pursuant to division (A)(3) of section 3701.922 of the Revised 29716  
Code. 29717

Sec. 3701.922. (A) The director of health may do any of the 29718  
following to implement and administer the patient centered medical 29719  
home education program: 29720

(1) Develop and implement programs of education or training 29721  
on the patient centered medical home model of care or other 29722  
similar enhanced models of coordinated patient centered care that 29723  
are intended to address the multifaceted needs of patients and 29724  
provide whole person comprehensive and coordinated patient 29725  
centered care; 29726

(2) Advise, consult, cooperate with, and assist, by contract 29727  
or other arrangement, government agencies or institutions or 29728  
private organizations, corporations, or associations in the 29729  
development and promotion of programs pertaining to the evaluation 29730  
and implementation of the patient centered medical home model of 29731  
care or other similar enhanced models of coordinated patient 29732  
centered care; 29733

(3) Establish pilot projects that do any of the following: 29734

(a) Evaluate or implement the patient centered medical home 29735  
model of care or other similar enhanced models of coordinated 29736  
patient centered care; 29737

(b) Provide education or training on the patient centered 29738  
medical home model of care or other similar enhanced models of 29739  
coordinated patient centered care. 29740

(4) Seek and administer state funds or grants from other 29741  
sources to carry out any functions of the patient centered medical 29742  
home education program. 29743

Any funds or grants received by the director for purposes of 29744

the program shall be used for the program. 29745

(B) The director may adopt rules as necessary to implement 29746  
and administer the patient centered medical home education 29747  
program, including rules that define what constitutes a "patient 29748  
centered medical home" for purposes of an entity authorized to 29749  
provide care coordination services. The rules shall be adopted in 29750  
accordance with Chapter 119. of the Revised Code. 29751

~~Sec. 185.02 3701.923. (A) There is hereby established the~~ 29752  
~~patient centered medical home education pilot project. The pilot~~ 29753  
~~project shall be implemented and administered by the patient~~ 29754  
~~centered medical home education advisory group.~~ 29755

~~(B) The pilot project shall be operated to advance medical~~ 29756  
~~education in the patient centered medical home model of care. The~~ 29757  
~~patient centered medical home model of care is an enhanced model~~ 29758  
~~of primary care in which care teams attend to the multifaceted~~ 29759  
~~needs of patients, providing whole person comprehensive and~~ 29760  
~~coordinated patient centered care.~~ 29761

~~(C) To the extent that funds are available, the director of~~ 29762  
~~health shall establish the patient centered medical home education~~ 29763  
~~pilot project. If the director establishes the project, all of the~~ 29764  
~~following apply:~~ 29765

~~(1) The director shall select practices led by physicians and~~ 29766  
~~primary care practices led by advanced practice nurses to~~ 29767  
~~participate in the project. The director may consider the~~ 29768  
~~recommendations of the advisory group made in accordance with~~ 29769  
~~section 3701.925 of the Revised Code, but may not select a~~ 29770  
~~practice unless the practice complies with any applicable~~ 29771  
~~requirements under section 3701.926 of the Revised Code.~~ 29772

~~(2) The director shall conduct the project in a manner that~~ 29773  
~~advances education in the patient centered medical home model of~~ 29774

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| <u>care.</u>  | 29775  |
| <u>(3) The director shall evaluate all of the following:</u>  | 29776  |
| <u>(a) Learning opportunities generated by the project;</u>   | 29777  |
| <u>(b) Training of physicians and advanced practice nurses under<br/>the project;</u>   | 29778<br>29779                                     |
| <u>(c) Costs of the project;</u>  | 29780  |
| <u>(d) The extent to which the project met the expected outcomes<br/>developed under division (A) of section 3701.924 of the Revised<br/>Code.</u>  | 29781<br>29782<br>29783                            |
| <u>(4) The director shall assess and review results of the<br/>project.</u>   | 29784<br>29785                                     |
| <u>(5) The director shall recommend best practices and<br/>opportunities for improving technology, education, comprehensive<br/>training, consultation, and technical assistance for health care<br/>service providers in the patient centered medical home model of<br/>care.</u>  | 29786<br>29787<br>29788<br>29789<br>29790          |
| <u>(B) The director may contract with an entity that has<br/>significant experience in assisting physician-led practices and<br/>advanced practice nurse-led primary care practices in<br/>transitioning to the patient centered medical home model of care.<br/>The contract shall require the entity to do both of the following:</u>   | 29791<br>29792<br>29793<br>29794<br>29795          |
| <u>(1) Provide, to each practice that enters into a contract<br/>with the director pursuant to section 3701.927 of the Revised<br/>Code, comprehensive training, consultation, and technical<br/>assistance in the operation of a patient centered medical home,<br/>including assistance with leadership training, scheduling changes,<br/>staff support, and care management for chronic health conditions;</u> | 29796<br>29797<br>29798<br>29799<br>29800<br>29801 |
| <u>(2) Assist the director in identifying necessary financial<br/>and operational requirements and any barriers or challenges<br/>associated with transitioning to a patient centered medical home</u>  | 29802<br>29803<br>29804                            |

model of care. 29805

(C) The project established under this section shall begin 29806  
not later than the date the first practice enters into a contract 29807  
with the director pursuant to section 3701.927 of the Revised Code 29808  
and shall cease not later than the date the final report is 29809  
submitted pursuant to division (B)(3) of section 3701.929 of the 29810  
Revised Code. 29811

(D) The ~~pilot~~ project shall not be operated in a manner that 29812  
requires a patient, unless otherwise required by the Revised Code, 29813  
to receive a referral from a physician in a practice selected for 29814  
inclusion in the pilot project under division (A)(1) of this 29815  
section ~~185.05~~ of the Revised Code as a condition of being 29816  
authorized to receive specialized health care services from an 29817  
individual licensed or certified under Title XLVII of the Revised 29818  
Code to provide those services. 29819

**Sec. ~~185.03~~ 3701.924.** (A) The patient centered medical home 29820  
education advisory group is hereby created for the purpose of 29821  
~~implementing and administering~~ advising the director of health on 29822  
the implementation and administration of the patient centered 29823  
medical home ~~pilot project~~ education program. The advisory group 29824  
shall develop and provide to the director a set of expected 29825  
outcomes for the pilot project. The advisory group shall consider 29826  
and provide other recommendations to the director and complete 29827  
other duties as the director considers appropriate. 29828

(B) The advisory group shall consist of the following ~~voting~~ 29829  
members: 29830

(1) The following members appointed by the director of 29831  
health: 29832

~~(1)(a)~~ (a) One individual with expertise in the training and 29833  
education of primary care physicians ~~who is appointed~~ recommended 29834

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| by the dean of the university of Toledo college of medicine;                                | 29835 |
| <del>(2)</del> (b) One individual with expertise in the training and                        | 29836 |
| education of primary care physicians <del>who is appointed</del> <u>recommended</u>         | 29837 |
| by the dean of the Boonshoft school of medicine at Wright state                             | 29838 |
| university;   | 29839 |
| <del>(3)</del> (c) One individual with expertise in the training and                        | 29840 |
| education of primary care physicians <del>who is appointed</del> <u>recommended</u>         | 29841 |
| by the president and dean of the northeast Ohio medical                                     | 29842 |
| university;   | 29843 |
| <del>(4)</del> (d) One individual with expertise in the training and                        | 29844 |
| education of primary care physicians <del>who is appointed</del> <u>recommended</u>         | 29845 |
| by the dean of the Ohio university college of osteopathic                                   | 29846 |
| medicine;   | 29847 |
| <del>(5)</del> (e) Two individuals <del>appointed</del> <u>recommended</u> by the governing | 29848 |
| board of the Ohio academy of family physicians;   | 29849 |
| <del>(6)</del> (f) One individual <del>appointed</del> <u>recommended</u> by the governing  | 29850 |
| board of the Ohio chapter of the American college of physicians;                            | 29851 |
| <del>(7)</del> (g) One individual <del>appointed</del> <u>recommended</u> by the governing  | 29852 |
| board of the <u>Ohio chapter of the American academy of pediatrics;</u>                     | 29853 |
| <del>(8)</del> (h) One individual <del>appointed</del> <u>recommended</u> by the governing  | 29854 |
| board of the Ohio osteopathic association;  | 29855 |
| <del>(9)</del> (i) One individual with expertise in the training and                        | 29856 |
| education of advanced practice nurses <del>who is appointed,</del>                          | 29857 |
| <u>recommended</u> by the governing board of the Ohio council of deans                      | 29858 |
| and directors of baccalaureate and higher degree programs in                                | 29859 |
| nursing;  | 29860 |
| <del>(10)</del> (j) One individual <del>appointed</del> <u>recommended</u> by the governing | 29861 |
| board of the Ohio nurses association;   | 29862 |
| <del>(11)</del> (k) One individual <del>appointed</del> <u>recommended</u> by the governing | 29863 |
| board of the Ohio association of advanced practice nurses;                                  | 29864 |

~~(12)(1)~~ One individual ~~appointed~~ recommended by the governing board of the Ohio council for home care and hospice; 29865  
29866

~~(13)(m)~~ One individual ~~appointed~~ recommended by the superintendent of insurance; 29867  
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(n) An employee of the department of health; 29869

(o) Not more than five additional members who have relevant expertise that the director considers appropriate. 29870  
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~~(C)(2)~~ The advisory group shall consist of the following nonvoting, ex officio members: 29872  
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~~(1)(a)~~ The executive director of the state medical board, or the director's designee; 29874  
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~~(2)(b)~~ The executive director of the board of nursing or the director's designee; 29876  
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~~(3)(c)~~ The chancellor of the Ohio board of regents, or the chancellor's designee; 29878  
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~~(4)(d)~~ The individual within the department of job and family services who serves as the medical assistance director of Medicaid, or the director's designee; 29880  
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29882

~~(5)~~ The director of health or the director's designee. 29883

~~(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. 29884  
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(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 29889  
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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. 29895  
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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. 29901  
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(3) Vacancies shall be filled in the manner provided for original appointments. 29905  
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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. 29907  
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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. 29910  
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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. 29914  
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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 29922  
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29925

or consider recommendations to the director on the administration 29926  
of the patient centered medical home education program. 29927

(F) Sections 101.82 to 101.87 of the Revised Code do not 29928  
apply to the advisory group. 29929

**Sec. ~~185.05~~ 3701.925.** (A) The patient centered medical home 29930  
education advisory group shall accept applications for inclusion 29931  
in the patient centered medical home education pilot project from 29932  
primary care practices with educational affiliations, as 29933  
determined by the advisory group, with one or more of the 29934  
following: 29935

(1) The Boonshoft school of medicine at Wright state 29936  
university; 29937

(2) The university of Toledo college of medicine; 29938

(3) The northeast Ohio medical university; 29939

(4) The Ohio university college of osteopathic medicine; 29940

(5) The college of nursing at the university of Toledo; 29941

(6) The Wright state university college of nursing and 29942  
health; 29943

(7) The college of nursing at Kent state university; 29944

(8) The university of Akron college of nursing; 29945

(9) The school of nursing at Ohio university. 29946

(B)(1) Subject to division (C)(1) of this section, the 29947  
advisory group shall ~~select~~ recommend to the director of health 29948  
for inclusion in the pilot project not ~~more~~ less than the 29949  
following number of ~~physician~~ practices led by physicians: 29950

(a) Ten practices affiliated with the Boonshoft school of 29951  
medicine at Wright state university; 29952

(b) Ten practices affiliated with the university of Toledo 29953

college of medicine; 29954

(c) Ten practices affiliated with the northeast Ohio medical 29955  
university; 29956

(d) Ten practices affiliated with the centers for osteopathic 29957  
research and education of the Ohio university college of 29958  
osteopathic medicine. 29959

(2) Subject to division (C)(2) of this section, the advisory 29960  
group shall ~~select~~ recommend to the director of health for 29961  
inclusion in the pilot project not less than the following number 29962  
of ~~advanced practice nurse~~ primary care practices led by advanced 29963  
practice nurses: 29964

(a) One practice affiliated with the college of nursing at 29965  
the university of Toledo; 29966

(b) One practice affiliated with the Wright state university 29967  
college of nursing and health; 29968

(c) One practice affiliated with the college of nursing at 29969  
Kent state university or the university of Akron college of 29970  
nursing; 29971

(d) One practice affiliated with the school of nursing at 29972  
Ohio university. 29973

(C)(1) All of the following apply with respect to the 29974  
~~selection~~ recommendation of ~~physician~~ physician-led practices 29975  
under division (B) of this section: 29976

(a) The advisory group shall strive to ~~select~~ physician 29977  
recommend physician-led practices in such a manner that the pilot 29978  
project includes a diverse range of primary care specialties, 29979  
including practices specializing in pediatrics, geriatrics, 29980  
general internal medicine, or family medicine. 29981

(b) When evaluating an application, the advisory group shall 29982  
consider the percentage of patients in the ~~physician~~ physician-led 29983

practice who are part of a medically underserved population, 29984  
including medicaid recipients and individuals without health 29985  
insurance. 29986

(c) The advisory group shall ~~select~~ recommend not fewer than 29987  
six practices that serve rural areas of this state, as those areas 29988  
are determined by the advisory group. 29989

(d) A member of the advisory group shall abstain from 29990  
participating in any vote taken regarding the ~~selection~~ 29991  
recommendation of a ~~physician~~ physician-led practice if the member 29992  
would receive any financial benefit from having the practice 29993  
included in the pilot project. 29994

(2) All of the following apply with respect to the ~~selection~~ 29995  
recommendation of advanced practice ~~nurse~~ nurse-led primary care 29996  
practices under division (B) of this section: 29997

(a) When evaluating an application, the advisory group shall 29998  
consider the percentage of patients in the advanced practice ~~nurse~~ 29999  
nurse-led primary care practice who are part of a medically 30000  
underserved population, including medicaid recipients and 30001  
individuals without health insurance. 30002

(b) If the advisory group determines that it has not received 30003  
an application from a sufficiently qualified advanced practice 30004  
~~nurse~~ nurse-led primary care practice affiliated with a particular 30005  
institution specified in division (B)(2) of this section, the 30006  
advisory group shall make the ~~selections~~ recommendations required 30007  
under that division in such a manner that the greatest possible 30008  
number of those institutions are ~~represented~~ recommended to be 30009  
included in the pilot project. To be ~~selected~~ recommended in this 30010  
manner, a practice remains subject to the eligibility requirements 30011  
specified in division (B) of section ~~185.06~~ 3701.926 of the 30012  
Revised Code. As specified in division (B)(2) of this section, the 30013  
number of practices ~~selected~~ recommended for inclusion in the 30014

pilot project shall be at least four. 30015

(c) A member of the advisory group shall abstain from 30016  
participating in any vote taken regarding the ~~selection~~ 30017  
recommendation of an advanced practice ~~nurse~~ nurse-led primary 30018  
care practice if the member would receive any financial benefit 30019  
from having the practice included in the pilot project. 30020

(D) The advisory group shall provide a copy of all 30021  
applications received under this section to the director of health 30022  
after making recommendations under division (B)(1) of this 30023  
section. 30024

**Sec. ~~185.06~~ 3701.926.** (A) To be eligible for inclusion in the 30025  
patient centered medical home education pilot project, a ~~physician~~ 30026  
physician-led practice shall meet all of the following 30027  
requirements: 30028

(1) Consist of physicians who are board-certified in family 30029  
medicine, general pediatrics, or internal medicine, as those 30030  
designations are issued by a medical specialty certifying board 30031  
recognized by the American board of medical specialties or 30032  
American osteopathic association; 30033

(2) Be capable of adapting the practice during the period in 30034  
which the practice ~~receives funding from~~ participates in the 30035  
patient centered medical home education ~~advisory group~~ pilot 30036  
project in such a manner that the practice is fully compliant with 30037  
the minimum standards for operation of a patient centered medical 30038  
home, as those standards are established by the ~~advisory group~~ 30039  
director of health; 30040

(3) Have submitted an application to participate in the 30041  
project established under former section 185.05 of the Revised 30042  
Code not later than April 15, 2011. 30043

(4) Meet any other criteria established by the ~~advisory group~~ 30044

director as part of the selection process. 30045

(B) To be eligible for inclusion in the pilot project, an 30046  
advanced practice ~~nurse~~ nurse-led primary care practice shall meet 30047  
all of the following requirements: 30048

(1) Consist of advanced practice nurses ~~who meet, each of~~ 30049  
whom meets all of the following requirements: 30050

(a) ~~Hold~~ Holds a certificate to prescribe issued under 30051  
section 4723.48 of the Revised Code; 30052

(b) ~~Are~~ Is board-certified as a family nurse practitioner or 30053  
adult nurse practitioner by the American academy of nurse 30054  
practitioners or American nurses credentialing center, 30055  
board-certified as a geriatric nurse practitioner or women's 30056  
health nurse practitioner by the American nurses credentialing 30057  
center, or is board-certified as a pediatric nurse practitioner by 30058  
the American nurses credentialing center or pediatric nursing 30059  
certification board; 30060

(c) ~~Has a collaboration agreement~~ Collaborates under a 30061  
standard care arrangement with a physician with board 30062  
certification as specified in division (A)(1) of this section and 30063  
who is an active participant on the health care team. 30064

(2) Be capable of adapting the primary care practice during 30065  
the period in which the practice ~~receives funding from~~ 30066  
participates in the advisory group project in such a manner that 30067  
the practice is fully compliant with the minimum standards for 30068  
operation of a patient centered medical home, as those standards 30069  
are established by the ~~advisory group~~ director; 30070

(3) Have submitted an application to participate in the 30071  
project established under former section 185.05 of the Revised 30072  
Code not later than April 15, 2011. 30073

(4) Meet any other criteria established by the ~~advisory group~~ 30074

director as part of the selection process. 30075

**Sec. 185.07 3701.927.** The ~~patient centered medical home education advisory group~~ director of health shall enter into a 30076  
contract with each primary care practice selected by the director 30077  
for inclusion in the patient centered medical home education pilot 30078  
project. The contract shall specify the terms and conditions for 30079  
inclusion in the pilot project, including a requirement that the 30080  
practice provide comprehensive, coordinated primary care services 30081  
to patients and serve as the patients' medical home. The contract 30082  
shall also require the practice to participate in the training of 30083  
medical students, advanced practice nursing students, ~~or~~ physician 30084  
assistant students, and primary care medical residents. 30085  
30086

The director may include as part of the contract any other 30087  
requirements necessary for a practice to be included in the 30088  
project, including requirements regarding the number of patients 30089  
served who are medicaid recipients and individuals without health 30090  
insurance. 30091

**Sec. 185.09 3701.928.** (A) The director of health or, at the 30092  
director's request, the patient centered medical home education 30093  
advisory group shall jointly may work with all medical and, 30094  
nursing, and physician assistant schools or programs in this state 30095  
to develop appropriate curricula designed to prepare primary care 30096  
physicians and, advanced practice nurses, and physician assistants 30097  
to practice within the patient centered medical home model of 30098  
care. In developing the curricula, the director or advisory group, 30099  
medical schools, and nursing and the schools or programs shall 30100  
include all of the following: 30101

(1) Components for use at the medical student, advanced 30102  
practice nursing student, physician assistant student, and primary 30103  
care resident training levels; 30104

(2) Components that reflect, as appropriate, the special needs of patients who are part of a medically underserved population, including medicaid recipients, individuals without health insurance, individuals with disabilities, individuals with chronic health conditions, and individuals within racial or ethnic minority groups;

(3) Components that include training in interdisciplinary cooperation between physicians ~~and~~, advanced practice nurses, and physician assistants in the patient centered medical home model of care, including curricula ensuring that a common conception of a patient centered medical home model of care is provided to medical students, advanced practice nurses, physician assistants, and primary care residents.

(B) The director or advisory group ~~shall~~ may work in association with the medical ~~and~~, nursing, and physician assistant schools or programs to identify funding sources to ensure that the curricula developed under division (A) of this section are accessible to medical students, advanced practice nursing students, physician assistant students, and primary care residents. The director or advisory group shall consider scholarship options or incentives provided to students in addition to those provided under the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code.

**Sec. 185.12 3701.929.** (A) ~~The patient-centered medical home education advisory group~~ If the director of health establishes the patient centered medical home education pilot project, the director shall prepare reports of its findings and recommendations from the ~~patient-centered medical home education~~ pilot project. Each report shall include an evaluation of the learning opportunities generated by the pilot project, the physicians and advanced practice nurses trained in the pilot project, the costs

of the pilot project, and the extent to which the pilot project 30136  
has met the set of expected outcomes developed under division (A) 30137  
of section ~~185.03~~ 3701.924 of the Revised Code. 30138

(B) The reports shall be completed in accordance with the 30139  
following schedule: 30140

(1) An interim report not later than six months after the 30141  
date on which the ~~first funding is released~~ last primary care 30142  
practice selected to participate in the project enters into a 30143  
contract with the department of health pursuant to section ~~185.11~~ 30144  
3701.927 of the Revised Code; 30145

(2) An update of the interim report not later than one year 30146  
after the date ~~on which the first funding is released~~ specified 30147  
under division (B)(1) of this section; 30148

(3) A final report not later than two years after the date ~~on~~ 30149  
~~which the first funding is released~~ specified under division 30150  
(B)(1) of this section. 30151

(C) The ~~advisory group~~ director shall submit each of the 30152  
reports to the governor and, in accordance with section 101.68 of 30153  
the Revised Code, to the general assembly. 30154

**Sec. 3701.93.** Subject to available funds, the director of 30155  
health shall establish the Ohio violent death reporting system to 30156  
collect and maintain information, data, and records regarding 30157  
violent deaths in Ohio. 30158

**Sec. 3701.931.** The Ohio violent death reporting system shall 30159  
do all of the following regarding violent death information, data, 30160  
and records maintained in the system: 30161

(A) Monitor the incidence and causes of the various types of 30162  
violent deaths; 30163

|   |       |
|---|-------|
| <u>(B) Make appropriate epidemiologic studies of the violent deaths;</u>  | 30164 |
|   | 30165 |
| <u>(C) Analyze trends and patterns in, and circumstances related to, the violent deaths;</u>  | 30166 |
|   | 30167 |
| <u>(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.</u>  | 30168 |
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|   | 30170 |
|   | 30171 |
|   | 30172 |
| <u>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.</u>   | 30173 |
|   | 30174 |
|   | 30175 |
|   | 30176 |
|   | 30177 |
|   | 30178 |
| <u>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.</u> | 30179 |
|   | 30180 |
|   | 30181 |
|   | 30182 |
|   | 30183 |
|   | 30184 |
| <u>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:</u>   | 30185 |
|   | 30186 |
|   | 30187 |
| <u>(A) Specify the types of violent deaths that shall be included in the Ohio violent death reporting system;</u>   | 30188 |
|   | 30189 |
| <u>(B) Specify the information, data, and records to be collected for use by the Ohio violent death reporting system;</u>   | 30190 |
|   | 30191 |
| <u>(C) Specify the sources from which the information, data, and</u>  | 30192 |

records are to be collected for use by the Ohio violent death reporting system; 30193  
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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. 30195  
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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. 30198  
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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. 30204  
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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. 30209  
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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 30219  
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individuals or families, law enforcement agency, coroner, or 30222  
public entity that provided services to an individual whose death 30223  
is the type of death specified by the director of health under 30224  
section 3701.934 of the Revised Code shall provide information, 30225  
data, records, and otherwise assist in the execution of sections 30226  
3701.93 to 3701.9314 of the Revised Code. 30227

**Sec. 3701.9310.** Except as otherwise provided in section 30228  
3701.9212 of the Revised Code, all of the following are not public 30229  
records under section 149.43 of the Revised Code, shall be 30230  
confidential, and shall be published only in statistical form: 30231

(A) Information, data, and records collected for use and 30232  
maintained by the Ohio violent death reporting system including, 30233  
but not limited to, medical records, law enforcement investigative 30234  
records, coroner investigative records, laboratory reports, and 30235  
other records concerning a decedent; 30236

(B) Work products created in carrying out the purposes of the 30237  
Ohio violent death reporting system. 30238

**Sec. 3701.9311.** Information, data, and records collected for 30239  
use and maintained by, and all work products created in carrying 30240  
out the purposes of, the Ohio violent death reporting system shall 30241  
not be subject to subpoena or discovery while in the possession of 30242  
the system or admissible in any criminal or civil proceeding if 30243  
obtained through, or from, the system. 30244

**Sec. 3701.9312.** The director of health, pursuant to rules 30245  
adopted in accordance with Chapter 119. of the Revised Code, shall 30246  
establish standards and procedures to make available to 30247  
researchers confidential information collected by the Ohio violent 30248  
death reporting system. Researchers complying with those standards 30249  
and procedures also shall comply with the confidentiality 30250

requirements of section 3701.9310 of the Revised Code. 30251

Sec. 3701.9314. The director of health may adopt rules in 30252  
accordance with Chapter 119. of the Revised Code necessary to 30253  
establish, maintain, and carry out the purposes of the Ohio 30254  
violent death reporting system under sections 3701.93 to 3701.9314 30255  
of the Revised Code. 30256

**Sec. 3702.141.** (A) As used in this section: 30257

(1) "Existing health care facility" means a health care 30258  
facility that is licensed or otherwise approved to practice in 30259  
this state, in accordance with applicable law, is staffed and 30260  
equipped to provide health care services, and actively provides 30261  
health services or has not been actively providing health services 30262  
for less than twelve consecutive months. 30263

(2) "Freestanding birthing center" means any facility in 30264  
which deliveries routinely occur, regardless of whether the 30265  
facility is located on the campus of another health care facility, 30266  
and which is not licensed under Chapter 3711. of the Revised Code 30267  
as a level one, two, or three maternity unit or a limited 30268  
maternity unit. 30269

~~(3) "Health care facility" and "health service" have the same~~ 30270  
~~meanings as in section 3702.51 of the Revised Code~~ means: 30271

(a) A hospital registered under section 3701.07 of the 30272  
Revised Code; 30273

(b) A nursing home licensed under section 3721.02 of the 30274  
Revised Code, or by a political subdivision certified under 30275  
section 3721.09 of the Revised Code; 30276

(c) A county home or a county nursing home as defined in 30277  
section 5155.31 of the Revised Code that is certified under Title 30278  
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 30279

|   |       |
|---|-------|
| <u>U.S.C.A. 301, as amended;</u>  | 30280 |
| <u>(d) A freestanding dialysis center;</u>                                | 30281 |
| <u>(e) A freestanding inpatient rehabilitation facility;</u>              | 30282 |
| <u>(f) An ambulatory surgical facility;</u>                               | 30283 |
| <u>(g) A freestanding cardiac catheterization facility;</u>               | 30284 |
| <u>(h) A freestanding birthing center;</u>                                | 30285 |
| <u>(i) A freestanding or mobile diagnostic imaging center;</u>            | 30286 |
| <u>(j) A freestanding radiation therapy center.</u>                       | 30287 |
| <u>A health care facility does not include the offices of</u>             | 30288 |
| <u>private physicians and dentists whether for individual or group</u>    | 30289 |
| <u>practice, residential facilities licensed under section 5123.19 of</u> | 30290 |
| <u>the Revised Code, or an institution for the sick that is operated</u>  | 30291 |
| <u>exclusively for patients who use spiritual means for healing and</u>   | 30292 |
| <u>for whom the acceptance of medical care is inconsistent with their</u> | 30293 |
| <u>religious beliefs, accredited by a national accrediting</u>            | 30294 |
| <u>organization, exempt from federal income taxation under section</u>    | 30295 |
| <u>501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26</u>       | 30296 |
| <u>U.S.C.A. 1, as amended, and providing twenty-four hour nursing</u>     | 30297 |
| <u>care pursuant to the exemption in division (E) of section 4723.32</u>  | 30298 |
| <u>of the Revised Code from the licensing requirements of Chapter</u>     | 30299 |
| <u>4723. of the Revised Code.</u>   | 30300 |
| <u>(4) "Health service" means a clinically related service, such</u>      | 30301 |
| <u>as a diagnostic, treatment, rehabilitative, or preventive service.</u> | 30302 |
| (B) Section 3702.14 of the Revised Code shall not be                      | 30303 |
| construed to require any existing health care facility that is            | 30304 |
| conducting an activity specified in section 3702.11 of the Revised        | 30305 |
| Code, which activity was initiated on or before March 20, 1997, to        | 30306 |
| alter, upgrade, or otherwise improve the structure or fixtures of         | 30307 |
| the facility in order to comply with any rule adopted under               | 30308 |
| section 3702.11 of the Revised Code relating to that activity,            | 30309 |

unless one of the following applies: 30310

(1) The facility initiates a construction, renovation, or 30311  
reconstruction project that involves a capital expenditure of at 30312  
least fifty thousand dollars, not including expenditures for 30313  
equipment or staffing or operational costs, and that directly 30314  
involves the area in which the existing service is conducted. 30315

(2) The facility initiates another activity specified in 30316  
section 3702.11 of the Revised Code. 30317

~~(3) The facility initiates a service level designation change 30318  
for obstetric and newborn care. 30319~~

~~(4) The facility proposes to add a cardiac catheterization 30320  
laboratory to an existing cardiac catheterization service. 30321~~

~~(5)~~(4) The facility proposes to add an open-heart operating 30322  
room to an existing open-heart surgery service. 30323

~~(6)~~(5) The director of health determines, by clear and 30324  
convincing evidence, that failure to comply with the rule would 30325  
create an imminent risk to the health and welfare of any patient. 30326

(C) If division (B)~~(4)~~(3) or ~~(5)~~(4) of this section applies, 30327  
any alteration, upgrade, or other improvement required shall apply 30328  
only to the proposed addition to the existing service if the cost 30329  
of the addition is less than the capital expenditure threshold set 30330  
forth in division (B)(1) of this section. 30331

(D) No person or government entity shall divide or otherwise 30332  
segment a construction, renovation, or reconstruction project in 30333  
order to evade application of the capital expenditure threshold 30334  
set forth in division (B)(1) of this section. 30335

**Sec. 3702.31.** (A) The quality monitoring and inspection fund 30336  
is hereby created in the state treasury. The director of health 30337  
shall use the fund to administer and enforce this section and 30338  
sections 3702.11 to 3702.20, 3702.30, 3702.301, ~~and~~ 3702.32, and 30339

3702.33 of the Revised Code and rules adopted pursuant to those 30340  
sections. The director shall deposit in the fund any moneys 30341  
collected pursuant to this section or section 3702.32 of the 30342  
Revised Code. All investment earnings of the fund shall be 30343  
credited to the fund. 30344

(B) The director of health shall adopt rules pursuant to 30345  
Chapter 119. of the Revised Code establishing fees for both of the 30346  
following: 30347

(1) Initial and renewal license applications submitted under 30348  
section 3702.30 of the Revised Code. The fees established under 30349  
division (B)(1) of this section shall not exceed the actual and 30350  
necessary costs of performing the activities described in division 30351  
(A) of this section. 30352

(2) Inspections conducted under section 3702.15 or 3702.30 of 30353  
the Revised Code. The fees established under division (B)(2) of 30354  
this section shall not exceed the actual and necessary costs 30355  
incurred during an inspection, including any indirect costs 30356  
incurred by the department for staff, salary, or other 30357  
administrative costs. The director of health shall provide to each 30358  
health care facility or provider inspected pursuant to section 30359  
3702.15 or 3702.30 of the Revised Code a written statement of the 30360  
fee. The statement shall itemize and total the costs incurred. 30361  
Within fifteen days after receiving a statement from the director, 30362  
the facility or provider shall forward the total amount of the fee 30363  
to the director. 30364

(3) The fees described in divisions (B)(1) and (2) of this 30365  
section shall meet both of the following requirements: 30366

(a) For each service described in section 3702.11 of the 30367  
Revised Code, the fee shall not exceed one thousand seven hundred 30368  
fifty dollars annually, except that the total fees charged to a 30369  
health care provider under this section shall not exceed five 30370

thousand dollars annually. 30371

(b) The fee shall exclude any costs reimbursable by the 30372  
United States centers for medicare and medicaid services as part 30373  
of the certification process for the medicare program established 30374  
under Title XVIII of the "Social Security Act," 79 Stat. 286 30375  
(1935), 42 U.S.C.A. 1395, as amended, and the medicaid program 30376  
established under Title XIX of the "Social Security Act," 79 Stat. 30377  
286 (1965), 42 U.S.C. 1396. 30378

(4) The director shall not establish a fee for any service 30379  
for which a licensure or inspection fee is paid by the health care 30380  
provider to a state agency for the same or similar licensure or 30381  
inspection. 30382

**Sec. 3702.51.** As used in sections 3702.51 to 3702.62 of the 30383  
Revised Code: 30384

(A) "Applicant" means any person that submits an application 30385  
for a certificate of need and who is designated in the application 30386  
as the applicant. 30387

(B) "Person" means any individual, corporation, business 30388  
trust, estate, firm, partnership, association, joint stock 30389  
company, insurance company, government unit, or other entity. 30390

(C) "Certificate of need" means a written approval granted by 30391  
the director of health to an applicant to authorize conducting a 30392  
reviewable activity. 30393

(D) "~~Health service~~ Service area" means ~~a geographic region~~ 30394  
~~designated by the director of health under section 3702.58 of the~~ 30395  
~~Revised Code~~ the current and projected primary and secondary 30396  
service areas to which the long-term care facility is, or will be, 30397  
providing long-term care services. 30398

(E) "~~Health~~ Primary service area" means ~~a clinically related~~ 30399  
~~service, such as a diagnostic, treatment, rehabilitative, or~~ 30400

~~preventive service the geographic region, usually comprised of the~~ 30401  
~~Ohio zip code in which the long-term care facility is located and~~ 30402  
~~contiguous zip codes, from which approximately seventy-five to~~ 30403  
~~eighty per cent of the facility's residents currently originate or~~ 30404  
~~are expected to originate.~~ 30405

(F) ~~"Health Secondary service agency area" means an agency~~ 30406  
~~designated to serve a health service area in accordance with~~ 30407  
~~section 3702.58 of the Revised Code the geographic region, usually~~ 30408  
~~comprised of Ohio zip codes not included in the primary service~~ 30409  
~~area, excluding isolated exceptions, from which the facility's~~ 30410  
~~remaining residents currently originate or are expected to~~ 30411  
~~originate.~~ 30412

(G) ~~"Health care facility" means:~~ 30413

~~(1) A hospital registered under section 3701.07 of the~~ 30414  
~~Revised Code;~~ 30415

~~(2) A nursing home licensed under section 3721.02 of the~~ 30416  
~~Revised Code, or by a political subdivision certified under~~ 30417  
~~section 3721.09 of the Revised Code;~~ 30418

~~(3) A county home or a county nursing home as defined in~~ 30419  
~~section 5155.31 of the Revised Code that is certified under Title~~ 30420  
~~XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 30421  
~~U.S.C.A. 301, as amended;~~ 30422

~~(4) A freestanding dialysis center;~~ 30423

~~(5) A freestanding inpatient rehabilitation facility;~~ 30424

~~(6) An ambulatory surgical facility;~~ 30425

~~(7) A freestanding cardiac catheterization facility;~~ 30426

~~(8) A freestanding birthing center;~~ 30427

~~(9) A freestanding or mobile diagnostic imaging center;~~ 30428

~~(10) A freestanding radiation therapy center.~~ 30429

~~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 30461  
of the following: 30462

(1) A ~~health~~ long-term care facility that is licensed or 30463  
otherwise authorized to operate in this state in accordance with 30464  
applicable law, including a county home or a county nursing home 30465  
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 30466  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 30467  
U.S.C. 301, as amended, is staffed and equipped to provide ~~health~~ 30468  
long-term care services, and is actively providing ~~health~~ 30469  
long-term care services; 30470

(2) A ~~health~~ long-term care facility that is licensed or 30471  
otherwise authorized to operate in this state in accordance with 30472  
applicable law, including a county home or a county nursing home 30473  
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 30474  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 30475  
U.S.C. 301, as amended, or that has beds registered under section 30476  
3701.07 of the Revised Code as skilled nursing beds or long-term 30477  
care beds and has provided long-term care services for at least 30478  
three hundred sixty-five consecutive days within the twenty-four 30479  
months immediately preceding the date a certificate of need 30480  
application is filed with the director of health. 30481

~~(M)~~(K) "State" means the state of Ohio, including, but not 30482  
limited to, the general assembly, the supreme court, the offices 30483  
of all elected state officers, and all departments, boards, 30484  
offices, commissions, agencies, institutions, and other 30485  
instrumentalities of the state of Ohio. "State" does not include 30486  
political subdivisions. 30487

~~(N)~~(L) "Political subdivision" means a municipal corporation, 30488  
township, county, school district, and all other bodies corporate 30489  
and politic responsible for governmental activities only in 30490  
geographic areas smaller than that of the state to which the 30491  
sovereign immunity of the state attaches. 30492

|   |   |
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| <del>(O)</del> (M) "Affected person" means:   | 30493                                     |
| (1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;   | 30494<br>30495<br>30496                   |
| (2) The person that requested the reviewability ruling in question;   | 30497<br>30498                            |
| (3) Any person that resides or regularly uses <del>health</del> <u>long-term</u> care facilities within the <del>geographic service</del> area served or to be served by the <del>health</del> <u>long-term</u> care services that would be provided under the certificate of need or reviewability ruling in question; | 30499<br>30500<br>30501<br>30502<br>30503 |
| (4) Any <del>health</del> <u>long-term</u> care facility that is located in the <del>health</del> service area where the <del>health</del> <u>long-term</u> care services would be provided under the certificate of need or reviewability ruling in question;  | 30504<br>30505<br>30506<br>30507          |
| (5) Third-party payers that reimburse <del>health</del> <u>long-term</u> care facilities for services in the <del>health</del> service area where the <del>health</del> <u>long-term</u> care services would be provided under the certificate of need or reviewability ruling in question.                             | 30508<br>30509<br>30510<br>30511          |
| <del>(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.</del>  | 30512<br>30513<br>30514<br>30515          |
| <del>(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:</del>  | 30516<br>30517<br>30518<br>30519          |
| <del>(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</del>   | 30520<br>30521<br>30522                   |

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|---|-------|
| <del>physician;</del>   | 30523 |
| <del>(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;</del>   | 30524 |
| <del>(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.</del>  | 30525 |
| <del>(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.</del>  | 30526 |
| <del>(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.</del>  | 30527 |
| <del>(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.</del>   | 30528 |
| <del>(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.</del>   | 30529 |
| <del>(R) Except as provided in division (S) of this section, "reviewable activity" means any of the following activities:</del>   | 30530 |
| <del>(R) Except as provided in division (S) of this section, "reviewable activity" means any of the following activities:</del>   | 30531 |
| <del>(1) The establishment, development, or construction of a new long term care facility;</del>  | 30532 |
| <del>(1) The establishment, development, or construction of a new long term care facility;</del>  | 30533 |
| <del>(2) The replacement of an existing long term care facility;</del>  | 30534 |
| <del>(3) The renovation of a long term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;</del>  | 30535 |
| <del>(3) The renovation of a long term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;</del>  | 30536 |
| <del>(3) The renovation of a long term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;</del>  | 30537 |
| <del>(3) The renovation of a long term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;</del>  | 30538 |
| <del>(4) Either of the following changes in long term care bed capacity:</del>  | 30539 |
| <del>(4) Either of the following changes in long term care bed capacity:</del>  | 30540 |
| <del>(a) An increase in bed capacity;</del>   | 30541 |
| <del>(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long term care facility or among buildings of a long term care facility at the same site.</del>  | 30542 |
| <del>(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long term care facility or among buildings of a long term care facility at the same site.</del>  | 30543 |
| <del>(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long term care facility or among buildings of a long term care facility at the same site.</del>  | 30544 |
| <del>(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long term care facility or among buildings of a long term care facility at the same site.</del>  | 30545 |
| <del>(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;</del> | 30546 |
| <del>(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;</del> | 30547 |
| <del>(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;</del> | 30548 |
| <del>(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;</del> | 30549 |
| <del>(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;</del> | 30550 |
| <del>(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;</del> | 30551 |

~~(6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long term care beds.~~ 30552  
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~~(S) "Reviewable activity" does not include any of the following activities:~~ 30555  
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~~(1) Acquisition of computer hardware or software;~~ 30557

~~(2) Acquisition of a telephone system;~~ 30558

~~(3) Construction or acquisition of parking facilities;~~ 30559

~~(4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;~~ 30560  
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~~(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;~~ 30563  
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~~(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;~~ 30566  
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~~(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;~~ 30570  
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~~(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;~~ 30573  
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~~(9) Construction, repair, or renovation of bathroom facilities;~~ 30577  
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~~(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of~~ 30579  
30580  
30581

~~medical office buildings used exclusively for physician services;~~ 30582

~~(11) Acquisition of medical equipment to conduct research 30583  
required by the United States food and drug administration or 30584  
clinical trials sponsored by the national institute of health. Use 30585  
of medical equipment that was acquired without a certificate of 30586  
need under division (S)(11) of this section and for which 30587  
premarket approval has been granted by the United States food and 30588  
drug administration to provide services for which patients or 30589  
reimbursement entities will be charged shall be a reviewable 30590  
activity. 30591~~

~~(12) Removal of asbestos from a health care facility. 30592~~

~~Only that portion of a project that meets the requirements of 30593  
this division is not a reviewable activity. 30594~~

~~(T) "Small rural hospital" means a hospital that is located 30595  
within a rural area, has fewer than one hundred beds, and to which 30596  
fewer than four thousand persons were admitted during the most 30597  
recent calendar year. 30598~~

~~(U) "Children's hospital" means any of the following: 30599~~

~~(1) A hospital registered under section 3701.07 of the 30600  
Revised Code that provides general pediatric medical and surgical 30601  
care, and in which at least seventy five per cent of annual 30602  
inpatient discharges for the preceding two calendar years were 30603  
individuals less than eighteen years of age; 30604~~

~~(2) A distinct portion of a hospital registered under section 30605  
3701.07 of the Revised Code that provides general pediatric 30606  
medical and surgical care, has a total of at least one hundred 30607  
fifty registered pediatric special care and pediatric acute care 30608  
beds, and in which at least seventy five per cent of annual 30609  
inpatient discharges for the preceding two calendar years were 30610  
individuals less than eighteen years of age; 30611~~

~~(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

Revised Code as a skilled nursing bed, a long-term care bed, or a special skilled nursing bed; 30642  
30643

(4) A bed in a county home or county nursing home that has been certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and is eligible for licensure as a nursing home bed; 30644  
30645  
30646  
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(5) A bed held as an approved bed under a certificate of need approved by the director. 30648  
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A bed cannot simultaneously be both a bed described in division (O)(1), (2), (3), or (4) of this section and a bed described in division (O)(5) of this section. 30650  
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~~(X) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.~~ 30653  
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~~(Y)(1)(P) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.~~ 30659  
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~~(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.~~ 30663  
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30665

~~(Z)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.~~ 30666  
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~~(2) "Rural area" means any area of this state not located~~ 30671

~~within a metropolitan statistical area.~~ 30672

~~(AA)~~(O) "County nursing home" has the same meaning as in 30673  
section 5155.31 of the Revised Code. 30674

~~(BB)~~(R) "Principal participant" means both of the following: 30675

(1) A person who has an ownership or controlling interest of 30676  
at least five per cent in an applicant, in a ~~health~~ long-term care 30677  
facility that is the subject of an application for a certificate 30678  
of need, or in the owner or operator of the applicant or such a 30679  
facility; 30680

(2) An officer, director, trustee, or general partner of an 30681  
applicant, of a ~~health~~ long-term care facility that is the subject 30682  
of an application for a certificate of need, or of the owner or 30683  
operator of the applicant or such a facility. 30684

~~(CC)~~(S) "Actual harm but not immediate jeopardy deficiency" 30685  
means a deficiency that, under 42 C.F.R. 488.404, either 30686  
constitutes a pattern of deficiencies resulting in actual harm 30687  
that is not immediate jeopardy or represents widespread 30688  
deficiencies resulting in actual harm that is not immediate 30689  
jeopardy. 30690

~~(DD)~~(T) "Immediate jeopardy deficiency" means a deficiency 30691  
that, under 42 C.F.R. 488.404, either constitutes a pattern of 30692  
deficiencies resulting in immediate jeopardy to resident health or 30693  
safety or represents widespread deficiencies resulting in 30694  
immediate jeopardy to resident health or safety. 30695

(U) "Existing bed" or "existing long-term care bed" means a 30696  
bed from an existing long-term care facility, a bed described in 30697  
division (O)(5) of this section, or a bed correctly reported as a 30698  
long-term care bed pursuant to section 5155.38 of the Revised 30699  
Code. 30700

Sec. 3702.511. (A) Except as provided in division (B) of this 30701

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|---|-------|
| <u>section, the following activities are reviewable under sections</u>    | 30702 |
| <u>3702.51 to 3702.62 of the Revised Code:</u>                            | 30703 |
| <u>(1) Establishment, development, or construction of a new</u>           | 30704 |
| <u>long-term care facility;</u>   | 30705 |
| <u>(2) Replacement of an existing long-term care facility;</u>            | 30706 |
| <u>(3) Renovation of or addition to a long-term care facility</u>         | 30707 |
| <u>that involves a capital expenditure of two million dollars or</u>      | 30708 |
| <u>more, not including expenditures for equipment, staffing, or</u>       | 30709 |
| <u>operational costs;</u>   | 30710 |
| <u>(4) Either of the following changes in long-term care bed</u>          | 30711 |
| <u>capacity:</u>  | 30712 |
| <u>(a) An increase in bed capacity;</u>                                   | 30713 |
| <u>(b) A relocation of beds from one physical facility or site</u>        | 30714 |
| <u>to another, excluding relocation of beds within a long-term care</u>   | 30715 |
| <u>facility or among buildings of a long-term care facility at the</u>    | 30716 |
| <u>same site.</u>   | 30717 |
| <u>(5) Any change in the bed capacity or site, or any other</u>           | 30718 |
| <u>failure to conduct a reviewable activity in substantial accordance</u> | 30719 |
| <u>with the approved application for which a certificate of need</u>      | 30720 |
| <u>concerning long-term care beds was granted, if the change is made</u>  | 30721 |
| <u>within five years after the implementation of the reviewable</u>       | 30722 |
| <u>activity for which the certificate was granted;</u>                    | 30723 |
| <u>(6) Expenditure of more than one hundred ten per cent of the</u>       | 30724 |
| <u>maximum expenditure specified in a certificate of need concerning</u>  | 30725 |
| <u>long-term care beds.</u>   | 30726 |
| <u>(B) The following activities are not subject to review under</u>       | 30727 |
| <u>sections 3702.51 to 3702.62 of the Revised Code:</u>                   | 30728 |
| <u>(1) Acquisition of computer hardware or software;</u>                  | 30729 |
| <u>(2) Acquisition of a telephone system;</u>                             | 30730 |

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| <u>(3) Construction or acquisition of parking facilities;</u>             | 30731 |
| <u>(4) Correction of cited deficiencies that constitute an</u>            | 30732 |
| <u>imminent threat to public health or safety and are in violation of</u> | 30733 |
| <u>federal, state, or local fire, building, or safety statutes,</u>       | 30734 |
| <u>ordinances, rules, or regulations;</u>                                 | 30735 |
| <u>(5) Acquisition of an existing long-term care facility that</u>        | 30736 |
| <u>does not involve a change in the number of the beds;</u>               | 30737 |
| <u>(6) Mergers, consolidations, or other corporate</u>                    | 30738 |
| <u>reorganizations of long-term care facilities that do not involve a</u> | 30739 |
| <u>change in the number of beds;</u>                                      | 30740 |
| <u>(7) Construction, repair, or renovation of bathroom</u>                | 30741 |
| <u>facilities;</u>  | 30742 |
| <u>(8) Construction of laundry facilities, waste disposal</u>             | 30743 |
| <u>facilities, dietary department projects, heating and air</u>           | 30744 |
| <u>conditioning projects, administrative offices, and portions of</u>     | 30745 |
| <u>medical office buildings used exclusively for physician services;</u>  | 30746 |
| <u>(9) Removal of asbestos from a health care facility.</u>               | 30747 |
| <u>Only that portion of a project that is described in this</u>           | 30748 |
| <u>division is not reviewable.</u>  | 30749 |
| <b>Sec. 3702.52.</b> The director of health shall administer a state      | 30750 |
| certificate of need program in accordance with sections 3702.51 to        | 30751 |
| 3702.62 of the Revised Code and rules adopted under those                 | 30752 |
| sections.   | 30753 |
| (A) The director shall issue rulings on whether a particular              | 30754 |
| proposed project is a reviewable activity. The director shall             | 30755 |
| issue a ruling not later than forty-five days after receiving a           | 30756 |
| request for a ruling accompanied by the information needed to make        | 30757 |
| the ruling. If the director does not issue a ruling in that time,         | 30758 |
| the project shall be considered to have been ruled not a                  | 30759 |
| reviewable activity.  | 30760 |

(B)(1) Each application for a certificate of need shall be 30761  
submitted to the director on forms and in the manner prescribed by 30762  
the director. Each application shall include a plan for obligating 30763  
the capital expenditures or implementing the proposed project on a 30764  
timely basis in accordance with section ~~3702.525~~ 3702.524 of the 30765  
Revised Code. Each application shall also include all other 30766  
information required by rules adopted under division (B) of 30767  
section 3702.57 of the Revised Code. 30768

(2) Each application shall be accompanied by the application 30769  
fee established in rules adopted under division (G) of section 30770  
3702.57 of the Revised Code. Application fees received by the 30771  
director under this division shall be deposited into the state 30772  
treasury to the credit of the certificate of need fund, which is 30773  
hereby created. The director shall use the fund only to pay the 30774  
costs of administering sections 3702.11 to 3702.20, 3702.30, and 30775  
3702.51 to 3702.62 of the Revised Code and rules adopted under 30776  
those sections. An application fee is nonrefundable unless the 30777  
director determines that the application cannot be accepted. 30778

(3) The director shall review applications for certificates 30779  
of need. As part of a review, the director shall determine whether 30780  
an application is complete. The director shall not consider an 30781  
application to be complete unless the application meets all 30782  
criteria for a complete application specified in rules adopted 30783  
under section 3702.57 of the Revised Code. The director shall mail 30784  
to the applicant a written notice that the application is 30785  
complete, or a written request for additional information, not 30786  
later than thirty days after receiving an application or a 30787  
response to an earlier request for information. Except as provided 30788  
in section ~~3702.523~~ 3702.522 of the Revised Code, the director 30789  
shall not make more than two requests for additional information. 30790  
The director's determination that an application is not complete 30791  
is final and not subject to appeal. 30792

~~The director may conduct a public informational hearing in 30793  
the course of reviewing any application for a certificate of need, 30794  
and shall conduct one if requested to do so by any affected person 30795  
not later than fifteen days after the director mails the notice 30796  
that the application is complete. The hearing shall be conducted 30797  
in the community in which the activities authorized by the 30798  
certificate of need would be carried out. Any affected person may 30799  
testify at the hearing. The director may, with the health service 30800  
agency's consent, designate a health service agency to conduct the 30801  
hearing. 30802~~

~~(4) Except during a public hearing or as necessary to comply 30803  
with a subpoena issued under division ~~(E)~~(F) of this section, 30804  
after a notice of completeness has been received, no person shall 30805  
make revisions to information that was submitted to the director 30806  
before the director mailed the notice of completeness or knowingly 30807  
discuss in person or by telephone the merits of the application 30808  
with the director. A person may supplement an application after a 30809  
notice of completeness has been received by submitting clarifying 30810  
information to the director. ~~If one or more persons request a 30811  
meeting in person or by telephone, the director shall make a 30812  
reasonable effort to invite interested parties to the meeting or 30813  
conference call. 30814~~~~

~~(C) All of the following apply to the process of granting or 30815  
denying a certificate of need: 30816~~

~~(1) If the project proposed in a certificate of need 30817  
application meets all of the applicable certificate of need 30818  
criteria for approval under sections 3702.51 to 3702.62 of the 30819  
Revised Code and the rules adopted under those sections, the 30820  
director shall grant a certificate of need for all or part of the 30821  
project that is the subject of the application by the applicable 30822  
deadline specified in division (C)(4) of this section or any 30823  
extension of it under division (C)(5) of this section. 30824~~

(2) The director's grant of a certificate of need does not affect, and sets no precedent for, the director's decision to grant or deny other applications for similar reviewable activities proposed to be conducted in the same or different health service areas.

(3) ~~If the director receives written objections to an application from any~~ Any affected person may submit written comments regarding an application. The director shall consider all written comments received by the thirtieth day after mailing the notice of completeness, ~~the director shall notify the applicant and assign a hearing examiner to conduct an adjudication hearing concerning the application in accordance with Chapter 119. of the Revised Code. In or, in~~ the case of applications under comparative review, ~~if the director receives written objections to any of the applications from any affected person by the thirtieth day after the director mails the last notice of completeness, the director shall notify all of the applicants and appoint a hearing examiner to conduct a consolidated adjudication hearing concerning the applications in accordance with Chapter 119. of the Revised Code. The hearing examiner shall be employed by or under contract with the department of health.~~

~~The adjudication hearings may be conducted in the health service area in which the reviewable activity is proposed to be conducted. Consolidated adjudication hearings for applications in comparative review may be conducted in the geographic region in which all of the reviewable activities will be conducted. The applicant, the director, and the affected persons that filed objections to the application shall be parties to the hearing. If none of the affected persons that submitted written objections to the application appears or prosecutes the hearing, the hearing examiner shall dismiss the hearing and the director shall grant a certificate of need for all or part of the project that is the~~

~~subject of the application if the proposed project meets all of 30857  
the applicable certificate of need criteria for approval under 30858  
sections 3702.51 to 3702.62 of the Revised Code and the rules 30859  
adopted under those sections. The affected persons bear the burden 30860  
of proving by a preponderance of evidence that the project is not 30861  
needed or that granting the certificate would not be in accordance 30862  
with sections 3702.51 to 3702.62 of the Revised Code or the rules 30863  
adopted under those sections. 30864~~

(4) Except as provided in division (C)(5) of this section, 30865  
the director shall grant or deny certificate of need applications 30866  
~~for which an adjudication hearing is not conducted under division 30867  
(C)(3) of this section not later than sixty days after mailing the 30868  
notice of completeness or, in the case of an application proposing 30869  
addition of long term care beds, not later than sixty days after 30870  
such other time as is specified in rules adopted under section 30871  
3702.57 of the Revised Code. Except as provided in division (C)(5) 30872  
of this section, the director shall grant or deny certificate of 30873  
need applications for which an adjudication hearing is conducted 30874  
under division (C)(3) of this section not later than thirty days 30875  
after the expiration of the time for filing objections to the 30876  
report and recommendation of the hearing examiner under section 30877  
119.09 of the Revised Code. The director shall base decisions 30878  
concerning applications for which an adjudication hearing is 30879  
conducted under division (C)(3) of this section on the report and 30880  
recommendations of the hearing examiner. 30881~~

(5) Except as otherwise provided in division (C)(6) of this 30882  
section, the director or the applicant may extend the deadline 30883  
prescribed in division (C)(4) of this section once, for no longer 30884  
than thirty days, by written notice before the end of the deadline 30885  
prescribed by division (C)(4) of this section. An extension by the 30886  
director under division (C)(5) of this section shall apply to all 30887  
applications that are in comparative review. 30888

(6) No applicant in a comparative review may extend the 30889  
deadline specified in division (C)(4) of this section. 30890

(7) If the director does not grant or deny the certificate by 30891  
the applicable deadline specified in division (C)(4) of this 30892  
section or any extension of it under division (C)(5) of this 30893  
section, the certificate shall be considered to have been granted. 30894

(8) In granting a certificate of need, the director shall 30895  
specify as the maximum capital expenditure the certificate holder 30896  
may obligate under the certificate a figure equal to one hundred 30897  
ten per cent of the approved project cost. 30898

(9) In granting a certificate of need, the director may grant 30899  
the certificate with conditions that must be met by the holder of 30900  
the certificate. 30901

(D) When a certificate of need is granted for a project under 30902  
which beds are to be relocated, upon completion of the project for 30903  
which the certificate of need was granted a number of beds equal 30904  
to the number of beds relocated shall cease to be operated in the 30905  
long-term care facility from which they are relocated, except that 30906  
the beds may continue to be operated for not more than fifteen 30907  
days to allow relocation of residents to the facility to which the 30908  
beds have been relocated. Notwithstanding section 3721.03 of the 30909  
Revised Code, if the relocated beds are in a home licensed under 30910  
Chapter 3721. of the Revised Code, the facility's license is 30911  
automatically reduced by the number of beds relocated effective 30912  
fifteen days after the beds are relocated. If the beds are in a 30913  
facility that is certified as a skilled nursing facility or 30914  
nursing facility under Title XVIII or XIX of the "Social Security 30915  
Act," the certification for the beds shall be surrendered. If the 30916  
beds are registered under section 3701.07 of the Revised Code as 30917  
skilled nursing beds or long-term care beds, the director shall 30918  
remove the beds from registration not later than fifteen days 30919  
after the beds are relocated. 30920

(E) The director shall monitor the activities of persons 30921  
granted certificates of need during the period beginning with the 30922  
granting of the certificate of need and ending five years after 30923  
implementation of the activity for which the certificate was 30924  
granted. 30925

~~(E)~~(F) When reviewing applications for certificates of need, 30926  
considering appeals under section 3702.60 of the Revised Code, or 30927  
monitoring activities of persons granted certificates of need, the 30928  
director may issue and enforce, in the manner provided in section 30929  
119.09 of the Revised Code, subpoenas and subpoenas duces tecum to 30930  
compel ~~the production of a person to testify and produce~~ documents 30931  
relevant to review of the application, consideration of the 30932  
appeal, or monitoring of the activities. In addition, the director 30933  
or the director's designee, ~~which may include a health service~~ 30934  
~~agency,~~ may visit the sites where the activities are or will be 30935  
conducted. 30936

~~(F)~~(G) The director may withdraw certificates of need. 30937

~~(G)~~ The director shall conduct, on a regular basis, health 30938  
system data collection and analysis activities and prepare 30939  
reports. The director shall make recommendations based upon these 30940  
activities to the public health council concerning the adoption of 30941  
appropriate rules under section 3702.57 of the Revised Code. (H) 30942  
All health long-term care facilities and other health care 30943  
providers shall submit to the director, upon request, any 30944  
information prescribed by rules adopted under division (H) of 30945  
section 3702.57 of the Revised Code that is necessary to conduct 30946  
reviews of certificate of need applications and to develop 30947  
~~recommendations for criteria for reviews, and that is prescribed~~ 30948  
~~by rules adopted under division (H) of section 3702.57 of the~~ 30949  
Revised Code. 30950

~~(H)~~(I) Any decision to grant or deny a certificate of need 30951  
shall consider the special needs and circumstances resulting from 30952

moral and ethical values and the free exercise of religious rights 30953  
of health ~~long-term~~ care facilities administered by religious 30954  
organizations, and the special needs and circumstances of inner 30955  
city and rural communities. 30956

**Sec. ~~3702.522~~ 3702.521.** (A) Reviews of applications for 30957  
certificates of need to recategorize hospital beds to skilled 30958  
nursing beds shall be conducted in accordance with this division 30959  
and rules adopted by the ~~public~~ director of health ~~council~~. 30960

(1) No hospital recategorizing beds shall apply for a 30961  
certificate of need for more than twenty skilled nursing beds. 30962

(2) No beds for which a certificate of need is requested 30963  
under this division shall be reviewed under or counted in any 30964  
formula developed under ~~public health council~~ rules adopted by the 30965  
director for the purpose of determining the number of long-term 30966  
care beds that may be needed within the state. 30967

(3) No beds shall be approved under this division unless the 30968  
hospital certifies and demonstrates in the application that the 30969  
beds will be dedicated to patients with a length of stay of no 30970  
more than thirty days. 30971

(4) No beds shall be approved under this division unless the 30972  
hospital can satisfactorily demonstrate in the application that it 30973  
is routinely unable to place the patients planned for the beds in 30974  
accessible skilled nursing facilities. 30975

(5) In developing rules to implement this division, the 30976  
~~public health council~~ director shall give special attention to the 30977  
required documentation of the need for such beds, including the 30978  
efforts made by the hospital to place patients in suitable skilled 30979  
nursing facilities, and special attention to the appropriate size 30980  
of units with such beds given the historical pattern of the 30981  
applicant hospital's documented difficulty in placing skilled 30982

nursing patients. 30983

(B) ~~To assist the director of health~~ For assistance in 30984  
monitoring the use of hospital beds recategorized as skilled 30985  
nursing beds after August 5, 1989, the ~~public health council~~ 30986  
director shall adopt rules specifying appropriate quarterly 30987  
procedures for reporting to the department of health. 30988

(C) A patient may stay in a hospital bed that, after August 30989  
5, 1989, has been recategorized as a skilled nursing bed for more 30990  
than thirty days if the hospital is able to demonstrate that it 30991  
made a good faith effort to place the patient in an accessible 30992  
skilled nursing facility acceptable to the patient within the 30993  
thirty-day period, but was unable to do so. 30994

(D) No hospital bed recategorized after August 5, 1989, as a 30995  
skilled nursing bed shall be covered by a provider agreement under 30996  
the medical assistance program established under Chapter 5111. of 30997  
the Revised Code. 30998

(E) Nothing in this section requires a hospital to place a 30999  
patient in any nursing home if the patient does not wish to be 31000  
placed in the nursing home. Nothing in this section limits the 31001  
ability of a hospital to file a certificate of need application 31002  
for the addition of long-term care beds that meet the definition 31003  
of "home" in section 3721.01 of the Revised Code. Nothing in this 31004  
section limits the ability of the director to grant certificates 31005  
of need necessary for hospitals to engage in demonstration 31006  
projects authorized by the federal government for the purpose of 31007  
enhancing long-term quality of care and cost containment. Nothing 31008  
in this section limits the ability of hospitals to develop swing 31009  
bed programs in accordance with federal regulations. 31010

No hospital that is granted a certificate of need after 31011  
August 5, 1989, to recategorize hospital beds as skilled nursing 31012  
beds is subject to sections 3721.01 to 3721.09 of the Revised 31013

Code. If the portion of the hospital in which the recategorized 31014  
beds are located is certified as a skilled nursing facility under 31015  
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 31016  
U.S.C.A. 301, as amended, that portion of the hospital is subject 31017  
to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of 31018  
the Revised Code. If the beds are registered pursuant to section 31019  
3701.07 of the Revised Code as long-term care beds, the beds are 31020  
subject to sections 3721.50 to 3721.58 of the Revised Code. 31021

~~(F) The public health council shall adopt rules authorizing 31022  
the creation of one or more nursing home placement clearinghouses. 31023  
Any public or private agency or facility may apply to the 31024  
department of health to serve as a nursing home placement 31025  
clearinghouse, and the rules shall provide the procedure for 31026  
application and process for designation of clearinghouses. 31027~~

~~The department may approve one or more clearinghouses, but in 31028  
no event shall there be more than one nursing home placement 31029  
clearinghouse in each county. Any nursing home may list with a 31030  
nursing home placement clearinghouse the services it provides and 31031  
the types of patients it is approved for and equipped to serve. 31032  
The clearinghouse shall make reasonable efforts to update its 31033  
information at least every six months. 31034~~

~~If an appropriate clearinghouse has been designated, each 31035  
hospital granted a certificate of need after August 5, 1989, to 31036  
recategorize hospital beds as skilled nursing beds shall, and any 31037  
other hospital may, utilize the nursing home placement 31038  
clearinghouse prior to admitting a patient to a skilled nursing 31039  
bed within the hospital and prior to keeping a patient in a 31040  
skilled nursing bed within a hospital in excess of thirty days. 31041~~

~~The department shall provide at least annually to all 31042  
hospitals a list of the designated nursing home placement 31043  
clearinghouses. 31044~~

**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 31076  
(B) of this section, a certificate of need ~~granted on or after~~ 31077  
~~April 20, 1995,~~ is not transferable prior to the completion of the 31078  
reviewable activity for which it was granted. If any person 31079  
holding a certificate of need ~~issued on or after that date~~ 31080  
transfers the certificate of need to another person before the 31081  
reviewable activity is completed, or enters into an agreement that 31082  
contemplates the transfer of the certificate of need on the 31083  
completion of the reviewable activity, the certificate of need is 31084  
void. If the controlling interest in an entity that holds a 31085  
certificate of need ~~issued on or after that date~~ is transferred 31086  
prior to the completion of the reviewable activity, the 31087  
certificate of need is void. 31088

(B) Division (A) of this section does not prohibit the 31089  
transfer of a certificate of need ~~issued on or after April 20,~~ 31090  
~~1995,~~ between affiliated or related persons, as defined in rules 31091  
adopted under section 3702.57 of the Revised Code, if the transfer 31092  
does not result in a change in the person that holds the ultimate 31093  
controlling interest, as defined in the rules, in the certificate 31094  
of need. 31095

The transfer of a ~~health~~ long-term care facility after the 31096  
completion of a reviewable activity for which a certificate of 31097  
need was issued ~~on or after April 20, 1995,~~ is not a transfer of 31098  
the certificate of need, unless the facility is transferred 31099  
pursuant to an agreement entered into prior to the completion of 31100  
the reviewable activity. 31101

**Sec. ~~3702.525~~ 3702.524.** (A) Not later than twenty-four months 31102  
after the date the director of health mails the notice that the 31103  
certificate of need has been granted or, if the grant or denial of 31104  
the certificate of need is appealed under section 3702.60 of the 31105  
Revised Code, not later than twenty-four months after issuance of 31106

an order granting the certificate that is not subject to further 31107  
appeal, each person holding a certificate of need granted ~~on or~~ 31108  
~~after April 20, 1995,~~ shall: 31109

(1) If the project for which the certificate of need was 31110  
granted primarily involves construction and is to be financed 31111  
primarily through external borrowing of funds, secure financial 31112  
commitment for the stated purpose of developing the project and 31113  
commence construction that continues uninterrupted except for 31114  
interruptions or delays that are unavoidable due to reasons beyond 31115  
the person's control, including labor strikes, natural disasters, 31116  
material shortages, or comparable events; 31117

(2) If the project for which the certificate of need was 31118  
granted primarily involves construction and is to be financed 31119  
primarily internally, receive formal approval from the holder's 31120  
board of directors or trustees or other governing authority to 31121  
commit specified funds for implementation of the project and 31122  
commence construction that continues uninterrupted except for 31123  
interruptions or delays that are unavoidable due to reasons beyond 31124  
the person's control, including labor strikes, natural disasters, 31125  
material shortages, or comparable events; 31126

~~(3) If the project for which the certificate of need was 31127  
granted primarily involves acquisition of medical equipment, enter 31128  
into a contract to purchase or lease the equipment and to accept 31129  
the equipment at the site for which the certificate was granted;~~ 31130

~~(4)~~ If the project for which the certificate of need was 31131  
granted involves no capital expenditure or only minor renovations 31132  
to existing structures, provide the health long-term care service 31133  
~~or activity~~ by the means specified in the approved application for 31134  
the certificate; 31135

~~(5)~~(4) If the project for which the certificate of need was 31136  
granted primarily involves leasing a building or space that 31137

requires only minor renovations to the existing space, execute a 31138  
lease and provide the health long-term care service ~~or activity~~ by 31139  
the means specified in the approved application for the 31140  
certificate; 31141

~~(6)~~(5) If the project for which the certificate of need was 31142  
granted primarily involves leasing a building or space that has 31143  
not been constructed or requires substantial renovations to 31144  
existing space, commence construction for the purpose of 31145  
implementing the reviewable activity that continues uninterrupted 31146  
except for interruptions or delays that are unavoidable due to 31147  
reasons beyond the person's control, including labor strikes, 31148  
natural disasters, material shortages, or comparable events. 31149

(B) The twenty-four-month period specified in division (A) of 31150  
this section shall not be extended by any means, including the 31151  
granting of a subsequent or replacement certificate of need. Each 31152  
person holding a certificate of need ~~granted on or after April 20,~~ 31153  
~~1995,~~ shall provide the director of health documentation of 31154  
compliance with that division not later than the earlier of thirty 31155  
days after complying with that division or five days after the 31156  
twenty-four-month period expires. Not later than the earlier of 31157  
fifteen days after receiving the documentation or fifteen days 31158  
after the twenty-four-month period expires, the director shall 31159  
send by certified mail a notice to the holder of the certificate 31160  
of need specifying whether the holder has complied with division 31161  
(A) of this section. 31162

(C) ~~Notwithstanding division (B) of this section, the~~ 31163  
~~twenty four month period specified in division (A) of this section~~ 31164  
~~shall be extended for an additional twenty four months for any~~ 31165  
~~certificate of need granted for the purchase and relocation of~~ 31166  
~~licensed nursing home beds on February 26, 1999.~~ 31167

~~(D)~~ A certificate of need ~~granted on or after April 20, 1995,~~ 31168  
expires, regardless of whether the director sends a notice under 31169

division (B) of this section, if the holder fails to comply with 31170  
division (A) ~~or (C)~~ of this section or to provide information 31171  
under division (B) of this section as necessary for the director 31172  
to determine compliance. The determination by the director that a 31173  
certificate of need has expired is final and not appealable under 31174  
Chapter 119. of the Revised Code. 31175

**Sec. ~~3702.526~~ 3702.525.** Every six months after complying with 31176  
section ~~3702.525~~ 3702.524 of the Revised Code, the holder of the 31177  
certificate of need shall demonstrate to the director of health, 31178  
in the form and manner required by rules adopted under section 31179  
3702.57 of the Revised Code, that reasonable progress is being 31180  
made toward the completion of the reviewable activity. If the 31181  
director determines, in accordance with standards specified in the 31182  
rules, that reasonable progress is not being made, ~~he~~ the director 31183  
shall withdraw the certificate of need. 31184

**Sec. 3702.526.** (A) Except as provided in division (B) of this 31185  
section, the director of health shall accept an application for a 31186  
replacement certificate of need for an activity described in 31187  
division (A)(5) of section 3702.511 of the Revised Code to replace 31188  
an approved certificate of need for that activity if all of the 31189  
following conditions are met: 31190

(1) The applicant is the same as the applicant for the 31191  
approved certificate of need or an affiliated or related person as 31192  
described in division (B) of section 3702.523 of the Revised Code. 31193

(2) The source of any long-term care beds to be relocated is 31194  
the same as in the approved certificate of need. 31195

(3) The application for the approved certificate of need was 31196  
not subject to comparative review under section 3702.593 of the 31197  
Revised Code. 31198

(B) The director shall not accept an application for a 31199

replacement certificate that proposes to increase the number of 31200  
long-term care beds to be relocated specified in the application 31201  
for the approved certificate of need. 31202

(C) For the purpose of determining whether long-term care 31203  
beds are from an existing long-term care facility, the director 31204  
shall consider the date of filing of the application for a 31205  
replacement certificate to be the same as the date of filing of 31206  
the original application for the approved certificate of need. 31207

(D) Any long-term care beds that were approved in the 31208  
approved certificate of need remain approved in the application 31209  
for a replacement certificate. 31210

(E) The applicant shall submit with the application for a 31211  
replacement certificate a nonrefundable fee equal to the 31212  
application fee for the approved certificate of need. 31213

(F) Upon approval of the application for a replacement 31214  
certificate, the original certificate of need is automatically 31215  
voided. 31216

**Sec. 3702.527.** A bed described in division (O)(5) of section 31217  
3702.51 of the Revised Code may be converted to a bed described in 31218  
division (O)(1), (2), (3), or (4) of that section only as provided 31219  
in the certificate of need under which the beds were approved or 31220  
its replacement certificate of need. 31221

**Sec. 3702.53.** (A) No person shall carry out any reviewable 31222  
activity unless a certificate of need for such activity has been 31223  
granted under sections 3702.51 to 3702.62 of the Revised Code or 31224  
the person is exempted by division ~~(S)~~(B) of section ~~3702.51~~ 31225  
~~3702.511~~ or section ~~3702.5210~~ or 3702.62 of the Revised Code from 31226  
the requirement that a certificate of need be obtained. No person 31227  
shall carry out any reviewable activity if a certificate of need 31228  
authorizing that activity has been withdrawn by the director of 31229

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 31261  
investigate an alleged violation of section 3702.53 of the Revised 31262  
Code. 31263

Each investigation under this section shall be conducted in a 31264  
manner that protects patient confidentiality. Names or other 31265  
identifying information about any patient shall not be made public 31266  
without the written consent of the patient or ~~his~~ the patient's 31267  
guardian, or, if the patient is a minor, ~~his~~ the patient's parent 31268  
or guardian. 31269

**Sec. 3702.54.** Except as provided in section 3702.541 of the 31270  
Revised Code, divisions (A) and (B) of this section apply when the 31271  
director of health determines that a person has violated section 31272  
3702.53 of the Revised Code. 31273

(A) The director shall impose a civil penalty on the person 31274  
in an amount equal to the greatest of the following: 31275

(1) Three thousand dollars; 31276

(2) Five per cent of the operating cost of the activity that 31277  
constitutes the violation during the period of time it was 31278  
conducted in violation of section 3702.53 of the Revised Code; 31279

(3) If a certificate of need was granted, two per cent of the 31280  
total approved capital cost associated with implementation of the 31281  
activity for which the certificate of need was granted. 31282

In no event, however, shall the penalty exceed two hundred 31283  
fifty thousand dollars. 31284

(B)(1) Notwithstanding section 3702.52 of the Revised Code, 31285  
the director shall refuse to accept for review any application for 31286  
a certificate of need filed by or on behalf of the person, or any 31287  
successor to the person or entity related to the person, for a 31288  
period of not less than one year and not more than three years 31289  
after the director mails the notice of the director's 31290

determination under section 3702.532 of the Revised Code or, if 31291  
the determination is appealed under section 3702.60 of the Revised 31292  
Code, the issuance of the order upholding the determination that 31293  
is not subject to further appeal. In determining the length of 31294  
time during which applications will not be accepted, the director 31295  
may consider any of the following: 31296

(a) The nature and magnitude of the violation; 31297

(b) The ability of the person to have averted the violation; 31298

(c) Whether the person disclosed the violation to the 31299  
director before the director commenced his investigation; 31300

(d) The person's history of compliance with sections 3702.51 31301  
to 3702.62 and the rules adopted under section 3702.57 of the 31302  
Revised Code; 31303

(e) Any community hardship that may result from refusing to 31304  
accept future applications from the person. 31305

(2) Notwithstanding the one-year minimum imposed by division 31306  
(B)(1) of this section, the director may establish a period of 31307  
less than one year during which the director will refuse to accept 31308  
certificate of need applications if, after reviewing all 31309  
information available to the director, the director determines and 31310  
expressly indicates in the notice mailed under section 3702.532 of 31311  
the Revised Code that refusing to accept applications for a longer 31312  
period would result in hardship to the community in which the 31313  
person provides ~~health~~ long-term care services. The director's 31314  
finding of community hardship shall not affect the granting or 31315  
denial of any future certificate of need application filed by the 31316  
person. 31317

**Sec. 3702.55.** A person that the director of health determines 31318  
has violated section 3702.53 of the Revised Code shall cease 31319  
conducting the activity that constitutes the violation or 31320

utilizing the ~~equipment~~ or facility resulting from the violation 31321  
not later than thirty days after the person receives the notice 31322  
mailed under section 3702.532 of the Revised Code or, if the 31323  
person appeals the director's determination under section 3702.60 31324  
of the Revised Code, thirty days after the person receives an 31325  
order upholding the director's determination that is not subject 31326  
to further appeal. 31327

If any person determined to have violated section 3702.53 of 31328  
the Revised Code fails to cease conducting an activity or using 31329  
~~equipment~~ or a facility as required by this section or if the 31330  
person continues to seek payment or reimbursement for services 31331  
rendered or costs incurred in conducting the activity as 31332  
prohibited by section 3702.56 of the Revised Code, in addition to 31333  
the penalties imposed under section 3702.54 or 3702.541 of the 31334  
Revised Code: 31335

(A) The director of health may refuse to include any beds 31336  
involved in the activity in the bed capacity of a hospital for 31337  
purposes of registration under section 3701.07 of the Revised 31338  
Code; 31339

(B) The director of health may refuse to license, or may 31340  
revoke a license or reduce bed capacity previously granted to, a 31341  
hospice care program under section 3712.04 of the Revised Code; a 31342  
nursing home, ~~rest home~~ residential care facility, or home for the 31343  
aging under section 3721.02 of the Revised Code; or any beds 31344  
within any of those facilities that are involved in the activity; 31345

(C) A political subdivision certified under section 3721.09 31346  
of the Revised Code may refuse to license, or may revoke a license 31347  
or reduce bed capacity previously granted to, a nursing home, ~~rest~~ 31348  
~~home~~ residential care facility, or home for the aging, or any beds 31349  
within any of those facilities that are involved in the activity; 31350

(D) The director of mental health may refuse to license under 31351

section 5119.20 of the Revised Code, or may revoke a license or 31352  
reduce bed capacity previously granted to, a hospital receiving 31353  
mentally ill persons or beds within such a hospital that are 31354  
involved in the activity; 31355

(E) The department of job and family services may refuse to 31356  
enter into a provider agreement that includes a facility, beds, or 31357  
services that result from the activity. 31358

**Sec. 3702.56.** No third-party payer or other person ~~or~~ 31359  
~~government entity~~ is required to pay, and no person shall seek or 31360  
accept payment or reimbursement for, any service rendered or costs 31361  
incurred in conducting an activity during the period of time in 31362  
which the activity was conducted in violation of section 3702.53 31363  
of the Revised Code. Each person that accepts any amount in 31364  
violation of this division shall refund that amount on request of 31365  
the person ~~or government entity~~ that paid it. 31366

**Sec. 3702.57.** (A) The ~~public~~ director of health ~~council~~ shall 31367  
adopt rules establishing procedures and criteria for reviews of 31368  
applications for certificates of need and issuance, denial, or 31369  
withdrawal of certificates. 31370

(1) In adopting rules that establish criteria for reviews of 31371  
applications of certificates of need, the ~~council~~ director shall 31372  
consider the availability of and need for long-term care beds to 31373  
provide care and treatment to persons diagnosed as having 31374  
traumatic brain injuries and shall prescribe criteria for 31375  
reviewing applications that propose to add long-term care beds to 31376  
provide care and treatment to persons diagnosed as having 31377  
traumatic brain injuries. 31378

(2) The criteria for reviews of applications for certificates 31379  
of need shall relate to the need for the reviewable activity and 31380  
shall pertain to all of the following matters: 31381

(a) The impact of the reviewable activity on the cost and 31382  
quality of ~~health~~ long-term care services in the relevant 31383  
~~geographic~~ service area, including, but not limited, to the 31384  
historical and projected utilization of the services to which the 31385  
application pertains and the effect of the reviewable activity on 31386  
utilization of other providers of similar services; 31387

(b) The quality of the services to be provided as the result 31388  
of the activity, as evidenced by the historical performance of the 31389  
persons that will be involved in providing the services and by the 31390  
provisions that are proposed in the application to ensure quality, 31391  
including but not limited to adequate available personnel, 31392  
available ancillary and support services, available equipment, 31393  
size and configuration of physical plant, and relations with other 31394  
providers; 31395

(c) The impact of the reviewable activity on the availability 31396  
and accessibility of the type of services proposed in the 31397  
application to the population of the relevant ~~geographic~~ service 31398  
area, and the level of access to the services proposed in the 31399  
application that will be provided to medically underserved 31400  
individuals such as recipients of public assistance and 31401  
individuals who have no health insurance or whose health insurance 31402  
is insufficient; 31403

(d) The activity's short- and long-term financial feasibility 31404  
and cost-effectiveness, the impact of the activity on the 31405  
applicant's costs and charges, and a comparison of the applicant's 31406  
costs and charges with those of providers of similar services in 31407  
the applicant's proposed service area; 31408

(e) The advantages, disadvantages, and costs of alternatives 31409  
to the reviewable activity; 31410

(f) The impact of the activity on all other providers of 31411  
similar services in the ~~health service area or other~~ relevant 31412

~~geographic~~ service area, including the impact on their 31413  
utilization, market share, and financial status; 31414

(g) The historical performance of the applicant and related 31415  
or affiliated parties in complying with previously granted 31416  
certificates of need and any applicable certification, 31417  
accreditation, or licensure requirements; 31418

~~(h) The relationship of the activity to the current edition 31419  
of the state health resources plan issued under section 3702.521 31420  
of the Revised Code; 31421~~

~~(i)~~ The historical performance of the applicant and related 31422  
or affiliated parties in providing cost-effective health long-term 31423  
care services; 31424

~~(j)~~(i) The special needs and circumstances of the applicant 31425  
or population proposed to be served by the proposed project, 31426  
including research activities, prevalence of particular diseases, 31427  
unusual demographic characteristics, cost-effective contractual 31428  
affiliations, and other special circumstances; 31429

~~(k)~~(j) The appropriateness of the zoning status of the 31430  
proposed site of the activity; 31431

~~(l)~~(k) The participation by the applicant in research 31432  
conducted by the United States food and drug administration or 31433  
clinical trials sponsored by the national institutes of health. 31434

(3) The criteria for reviews of applications shall include a 31435  
formula for determining each county's long-term care bed need for 31436  
purposes of section 3702.593 of the Revised Code and may include 31437  
other formulas for determining need for beds. 31438

Any rules prescribing criteria that establish ratios of beds 31439  
to population shall specify the bases for establishing the ratios 31440  
or mitigating factors or exceptions to the ratios. 31441

(B) The ~~council~~ director shall adopt rules specifying all of 31442

the following: 31443

(1) Information that must be provided in applications for 31444  
certificates of need; 31445

(2) Procedures for reviewing applications for completeness of 31446  
information; 31447

(3) Criteria for determining that the application is 31448  
complete. 31449

(C) The ~~council~~ director shall adopt rules specifying 31450  
requirements that holders of certificates of need must meet in 31451  
order for the certificates to remain valid and establishing 31452  
definitions and requirements for obligation of capital 31453  
expenditures and implementation of projects authorized by 31454  
certificates of need. 31455

(D) The ~~council~~ director shall adopt rules establishing 31456  
criteria and procedures under which the director of health may 31457  
withdraw a certificate of need if the holder fails to meet 31458  
requirements for continued validity of the certificate. 31459

(E) The ~~council~~ director shall adopt rules establishing 31460  
procedures under which the department of health shall monitor 31461  
project implementation activities of holders of certificates of 31462  
need. The rules adopted under this division also may establish 31463  
procedures for monitoring implementation activities of persons 31464  
that have received nonreviewability rulings. 31465

(F) The ~~council~~ director shall adopt rules establishing 31466  
procedures under which the director of health shall review 31467  
certificates of need whose holders exceed or appear likely to 31468  
exceed an expenditure maximum specified in a certificate. 31469

(G) The ~~council~~ director shall adopt rules establishing 31470  
certificate of need application fees sufficient to pay the costs 31471  
incurred by the department for administering sections 3702.51 to 31472

3702.62 of the Revised Code and to pay health service agencies for 31473  
the functions they perform under division (D)(5) of section 31474  
~~3702.58 of the Revised Code.~~ Unless rules are adopted under this 31475  
division establishing different application fees, the application 31476  
fee for a project not involving a capital expenditure shall be 31477  
three thousand dollars and the application fee for a project 31478  
involving a capital expenditure shall be nine-tenths of one per 31479  
cent of the capital expenditure proposed subject to a minimum of 31480  
three thousand dollars and a maximum of twenty thousand dollars. 31481

(H) The ~~council~~ director shall adopt rules specifying 31482  
information that is necessary to conduct reviews of certificate of 31483  
need applications and to develop ~~recommendations for~~ criteria for 31484  
reviews that ~~health long-term~~ care facilities and other health 31485  
~~care providers~~ are to submit to the director under division ~~(G)~~(H) 31486  
of section 3702.52 of the Revised Code. 31487

(I) The ~~council~~ director shall adopt rules defining 31488  
"affiliated person," "related person," and "ultimate controlling 31489  
interest" for purposes of section ~~3702.524~~ 3702.523 of the Revised 31490  
Code. 31491

(J) The ~~council~~ director shall adopt rules prescribing 31492  
requirements for holders of certificates of need to demonstrate to 31493  
the director under section ~~3702.526~~ 3702.525 of the Revised Code 31494  
that reasonable progress is being made toward completion of the 31495  
reviewable activity and establishing standards by which the 31496  
director shall determine whether reasonable progress is being 31497  
made. 31498

(K) The ~~public health council~~ director shall adopt all rules 31499  
under divisions (A) to (J) of this section in accordance with 31500  
Chapter 119. of the Revised Code. The ~~council~~ director may adopt 31501  
other rules as necessary to carry out the purposes of sections 31502  
3702.51 to 3702.62 of the Revised Code. 31503

**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. 31534  
31535

(iii) 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. 31536  
31537  
31538  
31539

(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: 31540  
31541  
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(i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies; 31549  
31550

(ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies; 31551  
31552

(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. 31553  
31554  
31555

(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 31556  
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or operator and the applicant or principal participant has 31565  
implemented measures to alleviate the circumstances. In the case 31566  
of an application proposing development of a new ~~health~~ long-term 31567  
care facility by relocation of beds, the director shall not 31568  
consider deficiencies or violations that were solely attributable 31569  
to the physical plant of the existing ~~health~~ long-term care 31570  
facility from which the beds are being relocated. 31571

(C) The director also shall accept for review any application 31572  
for the conversion of infirmary beds to long-term care beds if the 31573  
infirmary meets all of the following conditions: 31574

(1) Is operated exclusively by a religious order; 31575

(2) Provides care exclusively to members of religious orders 31576  
who take vows of celibacy and live by virtue of their vows within 31577  
the orders as if related; 31578

(3) Was providing care exclusively to members of such a 31579  
religious order on January 1, 1994. 31580

(D) Notwithstanding division (C)(2) of this section, a 31581  
facility that has been granted a certificate of need under 31582  
division (C) of this section may provide care to any of the 31583  
following family members of the individuals described in division 31584  
(C)(2) of this section: mothers, fathers, brothers, sisters, 31585  
brothers-in-law, sisters-in-law, or children. 31586

The long-term care beds in a facility that have been granted 31587  
a certificate of need under division (C) of this section may not 31588  
be relocated pursuant to sections 3702.592 to 3702.594 of the 31589  
Revised Code. 31590

**Sec. 3702.592.** (A) The director of health shall accept, for 31591  
review under section 3702.52 of the Revised Code, certificate of 31592  
need applications for any of the following purposes if the 31593  
proposed increase in beds is attributable ~~solely~~ to a replacement 31594

or relocation of existing beds from an existing ~~health~~ long-term care facility within the same county: 31595  
31596

(1) Approval of beds in a new ~~health~~ long-term care facility 31597  
or an increase of beds in an existing ~~health~~ long-term care 31598  
facility if the beds are proposed to be licensed as nursing home 31599  
beds under Chapter 3721. of the Revised Code; 31600

(2) Approval of beds in a new county home or new county 31601  
nursing home, or an increase of beds in an existing county home or 31602  
existing county nursing home if the beds are proposed to be 31603  
certified as skilled nursing facility beds under the medicare 31604  
program, Title XVIII of the "Social Security Act," 49 Stat. 286 31605  
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds under 31606  
the medicaid program, Title XIX of the "Social Security Act," 49 31607  
Stat. 286 (1965), 42 U.S.C. 1396, as amended; 31608

(3) An increase of hospital beds registered pursuant to 31609  
section 3701.07 of the Revised Code as long-term care beds; 31610

(4) An increase of hospital beds registered pursuant to 31611  
section 3701.07 of the Revised Code as special skilled nursing 31612  
beds that were originally authorized by and are operated in 31613  
accordance with section ~~3702.522~~ 3702.521 of the Revised Code. 31614

(B) The director shall accept applications described in 31615  
division (A) of this section at any time. 31616

**Sec. 3702.593.** (A) At the times specified in this section, 31617  
the director of health shall accept, for review under section 31618  
3702.52 of the Revised Code, certificate of need applications for 31619  
any of the following purposes if the proposed increase in beds is 31620  
attributable solely to relocation of existing beds from an 31621  
existing ~~health~~ long-term care facility in a county with excess 31622  
beds to a ~~health~~ long-term care facility in a county in which 31623  
there are fewer long-term care beds than the county's bed need: 31624

|  |       |
|--|-------|
| (1) Approval of beds in a new <del>health</del> <u>long-term</u> care facility | 31625 |
| or an increase of beds in an existing <del>health</del> <u>long-term</u> care  | 31626 |
| facility if the beds are proposed to be licensed as nursing home               | 31627 |
| beds under Chapter 3721. of the Revised Code;                                  | 31628 |
| (2) Approval of beds in a new county home or new county                        | 31629 |
| nursing home, or an increase of beds in an existing county home or             | 31630 |
| existing county nursing home if the beds are proposed to be                    | 31631 |
| certified as skilled nursing facility beds under the medicare                  | 31632 |
| program, Title XVIII of the "Social Security Act," 49 Stat. 286                | 31633 |
| (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under             | 31634 |
| the medicaid program, Title XIX of the "Social Security Act," 49               | 31635 |
| Stat. 286 (1965), 42 U.S.C. 1396, as amended;                                  | 31636 |
| (3) An increase of hospital beds registered pursuant to                        | 31637 |
| section 3701.07 of the Revised Code as long-term care beds.                    | 31638 |
| (B) For the purpose of implementing this section, the                          | 31639 |
| director shall do all of the following:  | 31640 |
| (1) <del>Determine</del> <u>Not later than April 1, 2012, and every four</u>   | 31641 |
| <u>years thereafter, determine</u> the long-term care bed supply for each      | 31642 |
| county, which shall consist of all of the following:                           | 31643 |
| (a) Nursing home beds licensed under Chapter 3721. of the                      | 31644 |
| Revised Code;  | 31645 |
| (b) Beds certified as skilled nursing facility beds under the                  | 31646 |
| medicare program or nursing facility beds under the medicaid                   | 31647 |
| program;   | 31648 |
| (c) <u>Beds in any portion of a hospital that are properly</u>                 | 31649 |
| <u>registered under section 3701.07 of the Revised Code as skilled</u>         | 31650 |
| <u>nursing beds, long-term care beds, or special skilled nursing</u>           | 31651 |
| <u>beds;</u>   | 31652 |
| (d) Beds in a county home or county nursing home that are                      | 31653 |
| certified under section 5155.38 of the Revised Code as having been             | 31654 |

in operation on July 1, 1993, and are eligible for licensure as 31655  
nursing home beds; 31656

~~(d)(e) Beds held as approved long term care beds under a 31657  
certificate of need approved by the director described in division 31658  
(O)(5) of section 3702.51 of the Revised Code. 31659~~

(2) Determine the long-term care bed occupancy rate for the 31660  
state at the time the determination is made; 31661

(3) For each county, determine the county's bed need by 31662  
identifying the number of long-term care beds that would be needed 31663  
in the county in order for the statewide occupancy rate for a 31664  
projected population aged sixty-five and older to be ninety per 31665  
cent. 31666

In determining each county's bed need, the director shall use 31667  
the formula developed in rules adopted under section 3702.57 of 31668  
the Revised Code. ~~The director's first determination after the 31669  
effective date of this section shall be made not later than April 31670  
1, 2010. The second determination shall be made not later than 31671  
April 1, 2012. Thereafter, a~~ A determination shall be made every 31672  
four years. After each determination is made, the director shall 31673  
publish the county's bed need on the web site maintained by the 31674  
department of health. 31675

(C) The director's consideration of a certificate of need 31676  
that would increase the number of beds in a county shall be 31677  
consistent with the county's bed need determined under division 31678  
(B) of this section except as follows: 31679

(1) If a county's occupancy rate is less than eighty-five per 31680  
cent, the county shall be considered to have no need for 31681  
additional beds. 31682

(2) Even if a county is determined not to need any additional 31683  
long-term care beds, the director may approve an increase in beds 31684  
equal to up to ten per cent of the county's bed supply if the 31685

county's occupancy rate is greater than ninety per cent. 31686

(D)(1) ~~Applications made under this section shall be subject~~ 31687  
~~to comparative review.~~ The review period for the first ~~comparative~~ 31688  
review process ~~after the effective date of this section~~ shall 31689  
begin July 1, 2010, and end June 30, 2012. The next review period 31690  
shall begin July 1, 2012, and end June 30, 2016. Thereafter, the 31691  
review period for each comparative review process shall begin on 31692  
the first day of July following the end of the previous review 31693  
period and shall be four years. 31694

(2) Certificate of need applications shall be accepted during 31695  
the first month of the review period and reviewed ~~from the first~~ 31696  
~~day of the review period~~ through the thirtieth day of April of the 31697  
following year. 31698

(3) Except for the first review period after ~~the effective~~ 31699  
~~date of this section~~ October 16, 2009, each review period may 31700  
consist of two phases. The first phase of the review period shall 31701  
be the period during which the director accepts and reviews 31702  
certificate of need applications as provided in division (D)(2) of 31703  
this section. If the director determines that there will be 31704  
acceptance and review of additional certificate of need 31705  
applications, the second phase of the review period shall begin on 31706  
the first day of July of the third year of the review period. The 31707  
second phase shall be limited to acceptance and review of 31708  
applications for redistribution of beds made available pursuant to 31709  
division ~~(G)(2)(I)~~ of this section. During the period between the 31710  
first and second phases of the review period, the director shall 31711  
act in accordance with division ~~(H)(I)~~ of this section. 31712

(E) The director shall consider certificate of need 31713  
applications in accordance with all of the following: 31714

(1) The number of beds approved for a county shall include 31715  
only beds available for relocation from another county and shall 31716

not exceed the bed need of the receiving county; 31717

(2) The director shall consider the existence of community 31718  
resources serving persons who are age sixty-five or older or 31719  
disabled that are demonstrably effective in providing alternatives 31720  
to long-term care facility placement. 31721

(3) The director shall approve relocation of beds from a 31722  
county only if, after the relocation, the number of beds remaining 31723  
in the county will exceed the county's bed need by at least one 31724  
hundred beds; 31725

(4) The director shall approve relocation of beds from a 31726  
~~health~~ long-term care facility only if, after the relocation, the 31727  
number of beds in the facility's service area is at least equal to 31728  
the state bed need rate. For purposes of this division, a 31729  
facility's service area shall be either of the following: 31730

(a) The census tract in which the facility is located, if the 31731  
facility is located in an area designated by the United States 31732  
secretary of health and human services as a health professional 31733  
shortage area under the "Public Health Service Act," 88 Stat. 682 31734  
(1944), 42 U.S.C. 254(e), as amended; 31735

(b) The area that is within a fifteen-mile radius of the 31736  
facility's location, if the facility is not located in a health 31737  
professional shortage area. 31738

(F) Applications made under this section are subject to 31739  
comparative review if two or more applications are submitted 31740  
during the same review period and any of the following applies: 31741

(1) The applications propose to relocate beds from the same 31742  
county and the number of beds for which certificates of need are 31743  
being requested totals more than the number of beds available in 31744  
the county from which the beds are to be relocated. 31745

(2) The applications propose to relocate beds to the same 31746

county and the number of beds for which certificates of need are 31747  
being requested totals more than the number of beds needed in the 31748  
county to which the beds are to be relocated. 31749

(3) The applications propose to relocate beds from the same 31750  
service area and the number of beds left in the service area from 31751  
which the beds are being relocated would be less than the state 31752  
bed need rate determined by the director. 31753

(G) In determining which applicants should receive preference 31754  
in the comparative review process, the director shall consider all 31755  
of the following as weighted priorities: 31756

(1) Whether the beds will be part of a continuing care 31757  
retirement community; 31758

(2) Whether the beds will serve an underserved population, 31759  
such as low-income individuals, individuals with disabilities, or 31760  
individuals who are members of racial or ethnic minority groups; 31761

(3) Whether the project in which the beds will be included 31762  
will provide alternatives to institutional care, such as adult 31763  
day-care, home health care, respite or hospice care, mobile meals, 31764  
residential care, independent living, or congregate living 31765  
services; 31766

(4) Whether the ~~health~~ long-term care facility's owner or 31767  
operator will participate in medicaid waiver programs for 31768  
alternatives to institutional care; 31769

(5) Whether the project in which the beds will be included 31770  
will reduce alternatives to institutional care by converting 31771  
residential care beds or other alternative care beds to long-term 31772  
care beds; 31773

(6) Whether the facility in which the beds will be placed has 31774  
positive resident and family satisfaction surveys; 31775

(7) Whether the facility in which the beds will be placed has 31776

fewer than fifty long-term care beds; 31777

(8) Whether the ~~health~~ long-term care facility in which the 31778  
beds will be placed is located within the service area of a 31779  
hospital and is designed to accept patients for rehabilitation 31780  
after an in-patient hospital stay; 31781

(9) Whether the ~~health~~ long-term care facility in which the 31782  
beds will be placed is or proposes to become a nurse aide training 31783  
and testing site; 31784

(10) The rating, under the centers for medicare and medicaid 31785  
services' five star nursing home quality rating system, of the 31786  
~~health~~ long-term care facility in which the beds will be placed. 31787

~~(G)(1) When a certificate of need application is approved 31788  
during the initial phase of a four year review period, on 31789  
completion of the project under which the beds are relocated, that 31790  
number of beds shall cease to be operated in the health care 31791  
facility from which they were relocated and, if the licensure or 31792  
certification of those beds cannot be or is not transferred to the 31793  
facility to which the beds are relocated, the licensure or 31794  
certification shall be surrendered. 31795~~

~~(2) In (H) A person who has submitted an application under 31796  
this section that is not subject to comparative review may revise 31797  
the site of the proposed project pursuant to section 3702.522 of 31798  
the Revised Code. 31799~~

(I) When a certificate of need application is approved during 31800  
the initial phase of a four-year review period, in addition to the 31801  
actions required by division ~~(G)(1)~~(D) of this section 3702.52 of 31802  
the Revised Code, the ~~health~~ long-term care facility from which 31803  
the beds were relocated shall reduce the number of beds operated 31804  
in the facility by a number of beds equal to at least ten per cent 31805  
of the number of beds relocated and shall surrender the licensure 31806  
or certification of those beds. If these beds are in a home 31807

licensed under Chapter 3721. of the Revised Code, the long-term 31808  
care facility shall have the beds removed from the license. If the 31809  
beds are in a facility that is certified as a skilled nursing 31810  
facility or nursing facility under Title XVIII or XIX of the 31811  
"Social Security Act," the facility shall surrender the 31812  
certification of these beds. If the beds are registered as skilled 31813  
nursing beds or long-term care beds under section 3701.07 of the 31814  
Revised Code, the long-term care facility shall surrender the 31815  
registration for these beds. This reduction shall be made not 31816  
later than the completion date of the project for which the beds 31817  
were relocated. 31818

~~(H)~~(J)(1) Once approval of certificate of need applications 31819  
in the first phase of a four-year review period is complete, the 31820  
director shall make a new determination of the bed need for each 31821  
county by reducing the county's bed need by the number of beds 31822  
approved for relocation to the county. The new bed-need 31823  
determination shall be made not later than the first day of April 31824  
of the third year of the review period. 31825

(2) The director may publish on the department's web site the 31826  
remaining bed need for counties that will be considered for 31827  
redistribution of beds that, in accordance with division ~~(G)~~(2)~~(I)~~ 31828  
of this section, have ceased or will cease to be operated. The 31829  
director shall base the determination of whether to include a 31830  
county on all of the following: 31831

(a) The statewide number of beds that, in accordance with 31832  
division ~~(G)~~(2)~~(I)~~ of this section, have ceased or will cease to 31833  
be operated; 31834

(b) The county's remaining bed need; 31835

(c) The county's bed occupancy rate. 31836

~~(I)~~(K) If the director publishes the remaining bed need for a 31837  
county under division ~~(H)~~(J)(2) of this section, the director may, 31838

beginning on the first day of the second phase of the review 31839  
period, accept certificate of need applications for redistribution 31840  
to ~~health~~ long-term care facilities in that county of beds that 31841  
have ceased or will cease operation in accordance with division 31842  
(~~G~~)(~~2~~)(I) of this section. The total number of beds approved for 31843  
redistribution in the second phase of a review period shall not 31844  
exceed the number that have ceased or will cease operation in 31845  
accordance with division (~~G~~)(~~2~~)(I) of this section. Beds that are 31846  
not approved for redistribution during the second phase of a 31847  
review period shall not be available for redistribution at any 31848  
future time. 31849

**Sec. 3702.594.** (A) The director of health shall accept, for 31850  
review under section 3702.52 of the Revised Code, certificate of 31851  
need applications for an increase in beds in an existing nursing 31852  
home if all of the following conditions are met: 31853

(1) The proposed increase is attributable solely to a 31854  
relocation of licensed nursing home beds from an existing nursing 31855  
home to another existing nursing home located in a county that is 31856  
contiguous to the county from which the beds are to be relocated; 31857

(2) Not more than a total of thirty nursing home beds are 31858  
proposed for relocation to the same existing nursing home 31859  
regardless of the number of applications filed. Once the 31860  
cumulative total of beds relocated under this section to a nursing 31861  
home reaches thirty, no further applications under this section 31862  
will be accepted until the period of monitoring specified in 31863  
division (E) of section 3702.52 of the Revised Code of the most 31864  
recent reviewable activity implemented under this section has 31865  
expired; 31866

(3) After the proposed relocation, there will be existing 31867  
nursing home beds remaining in the county from which the beds are 31868  
relocated; 31869

(4) The beds are proposed to be licensed as nursing home beds 31870  
under Chapter 3721. of the Revised Code. 31871

(B) The director shall accept applications described in 31872  
division (A) of this section at any time. 31873

**Sec. 3702.60.** (A) Any affected person may appeal a 31874  
reviewability ruling ~~issued on or after April 20, 1995,~~ to the 31875  
director of health in accordance with Chapter 119. of the Revised 31876  
Code, and the director shall provide an adjudication hearing in 31877  
accordance with that chapter. An affected person may appeal the 31878  
director's ruling in the adjudication hearing to the tenth 31879  
district court of appeals. 31880

(B) The certificate of need applicant or another affected 31881  
person may appeal to the director in accordance with Chapter 119. 31882  
of the Revised Code a decision issued by the director ~~on or after~~ 31883  
~~April 20, 1995,~~ to grant or deny a certificate of need application 31884  
~~for which an adjudication hearing was not conducted under section~~ 31885  
~~3702.52 of the Revised Code,~~ and the director shall provide an 31886  
adjudication hearing in accordance with that chapter. The 31887  
certificate of need applicant or other affected person that 31888  
appeals the director's decision to grant or deny a certificate of 31889  
need application must prove by a preponderance of the evidence 31890  
that the director's decision is not in accordance with sections 31891  
3702.52 to 3702.62 of the Revised Code or rules adopted under 31892  
those sections. The certificate of need applicant or an affected 31893  
person that was a party to and participated in an adjudication 31894  
hearing conducted under this division ~~or section 3702.52 of the~~ 31895  
~~Revised Code~~ may appeal to the tenth district court of appeals the 31896  
decision issued by the director following the adjudication 31897  
hearing. ~~No person may appeal to the director or a court the~~ 31898  
~~director's granting of a certificate of need prior to June 30,~~ 31899  
~~1995, under the version of section 3702.52 of the Revised Code in~~ 31900

~~effect immediately prior to that date due to failure to submit 31901  
timely written objections, no person may appeal to the director or 31902  
a court the director's granting of a certificate of need under 31903  
division (C)(1) of section 3702.52 of the Revised Code. 31904~~

(C) The certificate of need holder may appeal to the director 31905  
in accordance with Chapter 119. of the Revised Code a decision 31906  
issued by the director under section 3702.52 or ~~3702.526~~ 3702.525 31907  
of the Revised Code ~~on or after April 20, 1995,~~ to withdraw a 31908  
certificate of need, and the director shall provide an 31909  
adjudication hearing in accordance with that chapter. The person 31910  
may appeal the director's ruling in the adjudication hearing to 31911  
the tenth district court of appeals. 31912

(D) Any person determined by the director to have violated 31913  
section 3702.53 of the Revised Code may appeal that determination, 31914  
or the penalties imposed under section 3702.54 or 3702.541 of the 31915  
Revised Code, to the director in accordance with Chapter 119. of 31916  
the Revised Code, and the director shall provide an adjudication 31917  
hearing in accordance with that chapter. The person may appeal the 31918  
director's ruling in the adjudication hearing to the tenth 31919  
district court of appeals. 31920

(E) Each person appealing under this section to the director 31921  
shall file with the director, not later than thirty days after the 31922  
decision, ruling, or determination of the director was mailed, a 31923  
notice of appeal designating the decision, ruling, or 31924  
determination appealed from. 31925

(F) Each person appealing under this section to the tenth 31926  
district court of appeals shall file with the court, not later 31927  
than thirty days after the date the director's adjudication order 31928  
was mailed, a notice of appeal designating the order appealed 31929  
from. The appellant also shall file notice with the director not 31930  
later than thirty days after the date the order was mailed. 31931

(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. 31964

(H) No person may intervene in an appeal brought under this section. 31965  
31966

**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.~~ 31967  
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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.~~ 31974  
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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: 31986  
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(1) Inspect all nonresidential buildings within the meaning of section 3781.06 of the Revised Code; 31989  
31990

(2) Condemn all unsanitary or defective plumbing that is found in connection with those places; 31991  
31992

(3) Order changes in plumbing necessary to insure the safety 31993

of the public health. 31994

(B)(1)(a) The division of ~~labor~~ industrial compliance, boards 31995  
of health of city and general health districts, and county 31996  
building departments shall not inspect plumbing or collect fees 31997  
for inspecting plumbing in particular types of buildings in any 31998  
municipal corporation that is certified by the board of building 31999  
standards under section 3781.10 of the Revised Code to exercise 32000  
enforcement authority for plumbing in those types of buildings. 32001

(b) The division shall not inspect plumbing or collect fees 32002  
for inspecting plumbing in particular types of buildings in any 32003  
health district that employs one or more plumbing inspectors 32004  
certified pursuant to division (D) of this section to enforce 32005  
Chapters 3781. and 3791. of the Revised Code and the rules adopted 32006  
pursuant to those chapters relating to plumbing in those types of 32007  
buildings. 32008

(c) The division shall not inspect plumbing or collect fees 32009  
for inspecting plumbing in particular types of buildings in any 32010  
health district where the county building department is authorized 32011  
to inspect those types of buildings pursuant to a contract 32012  
described in division (C)(1) of this section. 32013

(d) The division shall not inspect plumbing or collect fees 32014  
for inspecting plumbing in particular types of buildings in any 32015  
health district where the board of health has entered into a 32016  
contract with the board of health of another district to conduct 32017  
inspections pursuant to division (C)(2) of this section. 32018

(2) No county building department shall inspect plumbing or 32019  
collect fees for inspecting plumbing in any type of building in a 32020  
health district unless the department is authorized to inspect 32021  
that type of building pursuant to a contract described in division 32022  
(C)(1) of this section. 32023

(3) No municipal corporation shall inspect plumbing or 32024

collect fees for inspecting plumbing in types of buildings for 32025  
which it is not certified by the board of building standards under 32026  
section 3781.10 of the Revised Code to exercise enforcement 32027  
authority. 32028

(4) No board of health of a health district shall inspect 32029  
plumbing or collect fees for inspecting plumbing in types of 32030  
buildings for which it does not have a plumbing inspector 32031  
certified pursuant to division (D) of this section. 32032

(C)(1) The board of health of a health district may enter 32033  
into a contract with a board of county commissioners to authorize 32034  
the county building department to inspect plumbing in buildings 32035  
within the health district. The contract may designate that the 32036  
department inspect either residential or nonresidential buildings, 32037  
as those terms are defined in section 3781.06 of the Revised Code, 32038  
or both types of buildings, so long as the department employs or 32039  
contracts with a plumbing inspector certified pursuant to division 32040  
(D) of this section to inspect the types of buildings the contract 32041  
designates. The board of health may enter into a contract 32042  
regardless of whether the health district employs any certified 32043  
plumbing inspectors to enforce Chapters 3781. and 3791. of the 32044  
Revised Code. 32045

(2) The board of health of a health district, regardless of 32046  
whether it employs any certified plumbing inspectors to enforce 32047  
Chapters 3781. and 3791. of the Revised Code, may enter into a 32048  
contract with the board of health of another health district to 32049  
authorize that board to inspect plumbing in buildings within the 32050  
contracting board's district. The contract may designate the 32051  
inspection of either residential or nonresidential buildings as 32052  
defined in section 3781.06 of the Revised Code, or both types of 32053  
buildings, so long as the board that performs the inspections 32054  
employs a plumbing inspector certified pursuant to division (D) of 32055  
this section to inspect the types of buildings the contract 32056

designates. 32057

(D) The superintendent of ~~labor~~ industrial compliance shall 32058  
adopt rules prescribing minimum qualifications based on education, 32059  
training, experience, or demonstrated ability, that the 32060  
superintendent shall use in certifying or recertifying plumbing 32061  
inspectors to do plumbing inspections for health districts and 32062  
county building departments that are authorized to perform 32063  
inspections pursuant to a contract under division (C)(1) of this 32064  
section, and for continuing education of plumbing inspectors. 32065  
Those minimum qualifications shall be related to the types of 32066  
buildings for which a person seeks certification. 32067

(E) The superintendent may enter into reciprocal 32068  
registration, licensure, or certification agreements with other 32069  
states and other agencies of this state relative to plumbing 32070  
inspectors if both of the following apply: 32071

(1) The requirements for registration, licensure, or 32072  
certification of plumbing inspectors under the laws of the other 32073  
state or laws administered by the other agency are substantially 32074  
equal to the requirements the superintendent adopts under division 32075  
(D) of this section for certifying plumbing inspectors. 32076

(2) The other state or agency extends similar reciprocity to 32077  
persons certified under this chapter. 32078

(F) The superintendent may select and contract with one or 32079  
more persons to do all of the following regarding examinations for 32080  
certification of plumbing inspectors: 32081

(1) Prepare, administer, score, and maintain the 32082  
confidentiality of the examination; 32083

(2) Maintain responsibility for all expenses required to 32084  
comply with division (F)(1) of this section; 32085

(3) Charge each applicant a fee for administering the 32086

examination in an amount the superintendent authorizes; 32087

(4) Design the examination for certification of plumbing 32088  
inspectors to determine an applicant's competence to inspect 32089  
plumbing. 32090

(G) Standards and methods prescribed in local plumbing 32091  
regulations shall not be less than those prescribed in Chapters 32092  
3781. and 3791. of the Revised Code and the rules adopted pursuant 32093  
to those chapters. 32094

(H) Notwithstanding any other provision of this section, the 32095  
division shall make a plumbing inspection of any building or other 32096  
place that there is reason to believe is in a condition to be a 32097  
menace to the public health. 32098

**Sec. 3703.03.** In the administration of sections 3703.01 to 32099  
3703.08 of the Revised Code, the division of ~~labor~~ industrial 32100  
compliance shall enforce rules governing plumbing adopted by the 32101  
board of building standards under authority of sections 3781.10 32102  
and 3781.11 of the Revised Code, and register those persons 32103  
engaged in or at the plumbing business. 32104

Plans and specifications for all plumbing to be installed in 32105  
or for buildings coming within such sections shall be submitted to 32106  
and approved by the division before the contract for plumbing is 32107  
let. 32108

**Sec. 3703.04.** The superintendent of ~~labor~~ industrial 32109  
compliance shall appoint such number of plumbing inspectors as is 32110  
required. The inspectors shall be practical plumbers with at least 32111  
seven years' experience, and skilled and well-trained in matters 32112  
pertaining to sanitary regulations concerning plumbing work. 32113

**Sec. 3703.05.** Plumbing inspectors employed by the division of 32114  
~~labor~~ industrial compliance assigned to the enforcement of 32115

sections 3703.01 to 3703.08 of the Revised Code may, between 32116  
sunrise and sunset, enter any building where there is good and 32117  
sufficient reason to believe that the sanitary condition of the 32118  
premises endangers the public health, for the purpose of making an 32119  
inspection to ascertain the condition of the premises. 32120

**Sec. 3703.06.** When any building is found to be in a sanitary 32121  
condition or when changes which are ordered, under authority of 32122  
this chapter, in the plumbing, drainage, or ventilation have been 32123  
made, and after a thorough inspection and approval by the 32124  
superintendent of ~~labor~~ industrial compliance, the superintendent 32125  
shall issue a certificate, which shall be posted in a conspicuous 32126  
place for the benefit of the public at large. Upon notification by 32127  
the superintendent, the certificate shall be revoked for any 32128  
violation of those sections. 32129

**Sec. 3703.07.** No plumbing work shall be done in any building 32130  
or place coming within the jurisdiction of the division of ~~labor~~ 32131  
industrial compliance, except in cases of repairs or leaks in 32132  
existing plumbing, until a permit has been issued by the division. 32133

Before granting such permit, an application shall be made by 32134  
the owner of the property or by the person, firm, or corporation 32135  
which is to do the work. The application shall be made on a form 32136  
prepared by the division for the purpose, and each application 32137  
shall be accompanied by a fee of twenty-seven dollars, and an 32138  
additional fee of seven dollars for each trap, vented fixture, 32139  
appliance, or device. Each application also shall be accompanied 32140  
by a plan approval fee of eighteen dollars for work containing one 32141  
through twenty fixtures; thirty-six dollars for work containing 32142  
twenty-one through forty fixtures; and fifty-four dollars for work 32143  
containing forty-one or more fixtures. 32144

Whenever a reinspection is made necessary by the failure of 32145

the applicant or plumbing contractor to have the work ready for 32146  
inspection when so reported, or by reason of faulty or improper 32147  
installation, the person shall pay a fee of forty-five dollars for 32148  
each reinspection. 32149

All fees collected pursuant to this section shall be paid 32150  
into the state treasury to the credit of the ~~labor~~ industrial 32151  
compliance operating fund created in section 121.084 of the 32152  
Revised Code. 32153

The superintendent of ~~labor~~ industrial compliance, by rule 32154  
adopted in accordance with Chapter 119. of the Revised Code, may 32155  
increase the fees required by this section and may establish fees 32156  
to pay the costs of the division to fulfill its duties established 32157  
by this chapter, including, but not limited to, fees for 32158  
administering a program for continuing education for, and 32159  
certifying and recertifying plumbing inspectors. The fees shall 32160  
bear some reasonable relationship to the cost of administering and 32161  
enforcing the provisions of this chapter. 32162

**Sec. 3703.08.** Any owner, agent, or manager of a building in 32163  
which an inspection is made by the division of ~~labor~~ industrial 32164  
compliance, a board of health of a health district, or a certified 32165  
department of building inspection of a municipal corporation or a 32166  
county shall have the entire system of drainage and ventilation 32167  
repaired, as the division, board of health, or department of 32168  
building inspection directs by its order. After due notice to 32169  
repair that work is given, the owner, agent, or manager shall 32170  
notify the public authority that issued the order when the work is 32171  
ready for its inspection. No person shall fail to have the work 32172  
ready for inspection at the time specified in the notice. 32173

**Sec. 3703.10.** All prosecutions and proceedings by the 32174  
division of ~~labor~~ industrial compliance for the violation of 32175

sections 3703.01 to 3703.08 of the Revised Code, or for the 32176  
violation of any of the orders or rules of the division under 32177  
those sections, shall be instituted by the superintendent of ~~labor~~ 32178  
industrial compliance. All fines or judgments collected by the 32179  
division shall be paid into the state treasury to the credit of 32180  
the ~~labor~~ industrial compliance operating fund created by section 32181  
121.084 of the Revised Code. 32182

The superintendent, the board of health of a general or city 32183  
health district, or any person charged with enforcing the rules of 32184  
the division adopted under sections 3703.01 to 3703.08 of the 32185  
Revised Code may petition the court of common pleas for injunctive 32186  
or other appropriate relief requiring any person violating a rule 32187  
adopted or order issued by the superintendent under those sections 32188  
to comply with the rule or order. The court of common pleas of the 32189  
county in which the offense is alleged to be occurring may grant 32190  
injunctive or other appropriate relief. 32191

The superintendent may do all of the following: 32192

(A) Deny an applicant certification as a plumbing inspector; 32193

(B) Suspend or revoke the certification of a plumbing 32194  
inspector; 32195

(C) Examine any certified plumbing inspector under oath; 32196

(D) Examine the records and books of any certified plumbing 32197  
inspector if the superintendent finds the material to be examined 32198  
relevant to a determination described in division (A), (B), or (C) 32199  
of this section. 32200

**Sec. 3703.21.** (A) Within ninety days after September 16, 32201  
2004, the superintendent of ~~labor~~ industrial compliance shall 32202  
appoint a backflow advisory board consisting of not more than ten 32203  
members, who shall serve at the pleasure of the superintendent. 32204  
The superintendent shall appoint a representative from the 32205

plumbing section of the division of ~~labor~~ industrial compliance, 32206  
three representatives recommended by the plumbing administrator of 32207  
the division of ~~labor~~ industrial compliance, a representative of 32208  
the drinking water program of the Ohio environmental protection 32209  
agency, three representatives recommended by the director of 32210  
environmental protection, and not more than two members who are 32211  
not employed by the plumbing or water industry. 32212

The board shall advise the superintendent on matters 32213  
pertaining to the training and certification of backflow 32214  
technicians. 32215

(B) The superintendent shall adopt rules in accordance with 32216  
Chapter 119. of the Revised Code to provide for the certification 32217  
of backflow technicians. The rules shall establish all of the 32218  
following requirements, specifications, and procedures: 32219

(1) Requirements and procedures for the initial certification 32220  
of backflow technicians, including eligibility criteria and 32221  
application requirements and fees; 32222

(2) Specifications concerning and procedures for taking 32223  
examinations required for certification as a backflow technician, 32224  
including eligibility criteria to take the examination and 32225  
application requirements and fees for taking the examination; 32226

(3) Specifications concerning and procedures for renewing a 32227  
certification as a backflow technician, including eligibility 32228  
criteria, application requirements, and fees for renewal; 32229

(4) Specifications concerning and procedures for both of the 32230  
following: 32231

(a) Approval of training agencies authorized to teach 32232  
required courses to candidates for certification as backflow 32233  
technicians or continuing education courses to certified backflow 32234  
technicians; 32235

|   |  |
|---|--|
| (b) Renewal of the approval described in division (B)(4)(a)<br>of this section.   | 32236<br>32237   |
| (5) Education requirements that candidates for initial<br>certification as backflow technicians must satisfy and continuing<br>education requirements that certified backflow technicians must<br>satisfy;  | 32238<br>32239<br>32240<br>32241                                     |
| (6) Grounds and procedures for denying, suspending, or<br>revoking certification, or denying the renewal of certification,<br>as a backflow technician;   | 32242<br>32243<br>32244  |
| (7) Procedures for issuing administrative orders for the<br>remedy of any violation of this section or any rule adopted<br>pursuant to division (B) of this section, including, but not<br>limited to, procedures for assessing a civil penalty authorized<br>under division (D) of this section;   | 32245<br>32246<br>32247<br>32248<br>32249                            |
| (8) Any provision the superintendent determines is necessary<br>to administer or enforce this section.  | 32250<br>32251   |
| (C) No individual shall engage in the installation, testing,<br>or repair of any isolation backflow prevention device unless that<br>individual possesses a valid certification as a backflow<br>technician. This division does not apply with respect to the<br>installation, testing, or repair of any containment backflow<br>prevention device.   | 32252<br>32253<br>32254<br>32255<br>32256<br>32257                   |
| (D) Whoever violates division (C) of this section or any rule<br>adopted pursuant to division (B) of this section shall pay a civil<br>penalty of not more than five thousand dollars for each day that<br>the violation continues. The superintendent may, by order, assess<br>a civil penalty under this division, or may request the attorney<br>general to bring a civil action to impose the civil penalty in the<br>court of common pleas of the county in which the violation<br>occurred or where the violator resides. | 32258<br>32259<br>32260<br>32261<br>32262<br>32263<br>32264<br>32265 |
| (E) Any action taken under a rule adopted pursuant to   | 32266  |

division (B)(6) of this section is subject to the appeal process 32267  
of Chapter 119. of the Revised Code. An administrative order 32268  
issued pursuant to rules adopted under division (B)(7) of this 32269  
section and an appeal to that type of administrative order shall 32270  
be executed in accordance with Chapter 119. of the Revised Code. 32271

(F) As used in this section: 32272

(1) "Isolation backflow prevention device" means a device for 32273  
the prevention of the backflow of liquids, solids, or gases that 32274  
is regulated by the building code adopted pursuant to section 32275  
3781.10 of the Revised Code and rules adopted pursuant to this 32276  
section. 32277

(2) "Containment backflow prevention device" means a device 32278  
for the prevention of the backflow of liquids, solids, or gases 32279  
that is installed by the supplier of, or as a requirement of, any 32280  
public water system as defined in division (A) of section 6109.01 32281  
of the Revised Code. 32282

**Sec. 3703.99.** Whoever violates sections 3703.01 to 3703.08 of 32283  
the Revised Code, or any rule the division of ~~labor~~ industrial 32284  
compliance is required to enforce under such sections, shall be 32285  
fined not less than ten nor more than one hundred dollars or 32286  
imprisoned for not less than ten nor more than ninety days, or 32287  
both. No person shall be imprisoned under this section for the 32288  
first offense, and the prosecution always shall be as for a first 32289  
offense unless the affidavit upon which the prosecution is 32290  
instituted contains the allegation that the offense is a second or 32291  
repeated offense. 32292

**Sec. 3704.035.** (A) There is hereby created in the state 32293  
treasury the Title V clean air fund. Except as otherwise provided 32294  
in division (K) of section 3745.11 of the Revised Code, all moneys 32295  
collected under ~~divisions (C), (D), (F), (G), (H), (I), and (J)~~ 32296

~~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 32329  
conditions of permits, variances, and orders issued under those 32330  
laws. However, the director shall not expend money credited to the 32331  
fund for the administration and enforcement of the Title V permit 32332  
program established under this chapter and rules adopted under it 32333  
or motor vehicle inspection and maintenance programs established 32334  
under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 32335  
of the Revised Code. 32336

(C) The director shall report biennially to the general 32337  
assembly the amounts of fees and other moneys credited to the ~~fund~~ 32338  
funds under this section and the amounts expended from ~~it~~ them for 32339  
each of the various air pollution control programs. 32340

**Sec. 3705.24.** (A)(1) The ~~public director of health council~~ 32341  
shall, in accordance with section 111.15 of the Revised Code, 32342  
adopt rules prescribing fees for the following items or services 32343  
provided by the state office of vital statistics: 32344

(a) Except as provided in division (A)(4) of this section: 32345

(i) A certified copy of a vital record or a certification of 32346  
birth; 32347

(ii) A search by the office of vital statistics of its files 32348  
and records pursuant to a request for information, regardless of 32349  
whether a copy of a record is provided; 32350

(iii) A copy of a record provided pursuant to a request. 32351

(b) Replacement of a birth certificate following an adoption, 32352  
legitimation, paternity determination or acknowledgement, or court 32353  
order; 32354

(c) Filing of a delayed registration of a vital record; 32355

(d) Amendment of a vital record that is requested later than 32356  
one year after the filing date of the vital record; 32357

(e) Any other documents or services for which the ~~public~~ 32358  
~~health council~~ director considers the charging of a fee 32359  
appropriate. 32360

(2) Fees prescribed under division (A)(1)(a) of this section 32361  
shall not be less than twelve dollars. 32362

(3) Fees prescribed under division (A)(1) of this section 32363  
shall be collected in addition to any fees required by sections 32364  
3109.14 and 3705.242 of the Revised Code. 32365

(4) Fees prescribed under division (A) of this section shall 32366  
not apply to certifications issued under division (H) of this 32367  
section or copies provided under section 3705.241 of the Revised 32368  
Code. 32369

(B) In addition to the fees prescribed under division (A) of 32370  
this section or section 3709.09 of the Revised Code, the office of 32371  
vital statistics, the board of health of a city or general health 32372  
district, or a local registrar of vital statistics who is not a 32373  
salaried employee of a city or general health district shall 32374  
charge a five-dollar fee for each certified copy of a vital record 32375  
and each certification of birth. This fee shall be deposited in 32376  
the general operations fund created under section 3701.83 of the 32377  
Revised Code and be used to support the operations, the 32378  
modernization, and the automation of the vital records program in 32379  
this state. A board of health or a local registrar shall forward 32380  
all fees collected under this division to the department of health 32381  
not later than thirty days after the end of each calendar quarter. 32382

(C) Except as otherwise provided in division (H) of this 32383  
section, and except as provided in section 3705.241 of the Revised 32384  
Code, fees collected by the director of health under sections 32385  
3705.01 to 3705.29 of the Revised Code shall be paid into the 32386  
state treasury to the credit of the general operations fund 32387  
created by section 3701.83 of the Revised Code. Except as provided 32388

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 32420  
and less than one hundred twenty-five thousand, eighty cents; 32421

(4) In primary registration districts of less than fifty 32422  
thousand, one dollar. 32423

(E) The director of health shall annually certify to the 32424  
county treasurers of the several counties the number of birth, 32425  
fetal death, death, and military service certificates registered 32426  
from their respective counties with the names of the local 32427  
registrars and the amounts due each registrar and health district 32428  
at the rates fixed in this section. Such amounts shall be paid by 32429  
the treasurer of the county in which the registration districts 32430  
are located. No fees shall be charged or collected by registrars 32431  
except as provided by this chapter and section 3109.14 of the 32432  
Revised Code. 32433

(F) A probate judge shall be paid a fee of fifteen cents for 32434  
each certified abstract of marriage prepared and forwarded by the 32435  
probate judge to the department of health pursuant to section 32436  
3705.21 of the Revised Code. The fee shall be in addition to the 32437  
fee paid for a marriage license and shall be paid by the 32438  
applicants for the license. 32439

(G) The clerk of a court of common pleas shall be paid a fee 32440  
of one dollar for each certificate of divorce, dissolution, and 32441  
annulment of marriage prepared and forwarded by the clerk to the 32442  
department pursuant to section 3705.21 of the Revised Code. The 32443  
fee for the certified abstract of divorce, dissolution, or 32444  
annulment of marriage shall be added to the court costs allowed in 32445  
these cases. 32446

(H) The fee for an heirloom certification of birth issued 32447  
pursuant to division (B)(2) of section 3705.23 of the Revised Code 32448  
shall be an amount prescribed by rule by the director of health 32449  
plus any fee required by section 3109.14 of the Revised Code. In 32450

setting the amount of the fee, the director shall establish a 32451  
surcharge in addition to an amount necessary to offset the expense 32452  
of processing heirloom certifications of birth. The fee prescribed 32453  
by the director of health pursuant to this division shall be 32454  
deposited into the state treasury to the credit of the heirloom 32455  
certification of birth fund which is hereby created. Money 32456  
credited to the fund shall be used by the office of vital 32457  
statistics to offset the expense of processing heirloom 32458  
certifications of birth. However, the money collected for the 32459  
surcharge, subject to the approval of the controlling board, shall 32460  
be used for the purposes specified by the family and children 32461  
first council pursuant to section 121.37 of the Revised Code. 32462

(I)(1) Four dollars of each fee collected by the board of 32463  
health of a city or general health district for a certified copy 32464  
of a vital record or a certification of birth shall be transferred 32465  
to the office of vital statistics not later than thirty days after 32466  
the end of each calendar quarter. The amount collected shall be 32467  
used to support public health systems. Of each four dollars 32468  
collected, one dollar shall be used by the director of health to 32469  
pay subsidies to boards of health. The subsidies shall be 32470  
distributed in accordance with the same formula established under 32471  
section 3701.342 of the Revised Code for the distribution of state 32472  
health district subsidy funds to boards of health and local health 32473  
departments. 32474

(2) Four dollars of each fee collected by a local registrar 32475  
of vital statistics who is not a salaried employee of a city or 32476  
general health district, for a certified copy of a vital record or 32477  
certification of birth, shall be transferred to the office of 32478  
vital statistics not later than thirty days after the end of each 32479  
calendar quarter. The amount collected shall be used to support 32480  
public health systems. 32481

**Sec. 3705.242.** (A)(1) The director of health, a person 32482  
authorized by the director, a local commissioner of health, or a 32483  
local registrar of vital statistics shall charge and collect a fee 32484  
of one dollar and fifty cents for each certified copy of a birth 32485  
record, each certification of birth, and each copy of a death 32486  
record. The fee is in addition to the fee imposed by section 32487  
3705.24 or any other section of the Revised Code. A local 32488  
commissioner of health or local registrar of vital statistics may 32489  
retain an amount of each additional fee collected, not to exceed 32490  
three per cent of the amount of the additional fee, to be used for 32491  
costs directly related to the collection of the fee and the 32492  
forwarding of the fee to the ~~treasurer of state~~ department of 32493  
health. The 32494

The additional fees collected by the director of health or a 32495  
person authorized by the director and the additional fees 32496  
collected, but not retained, under division (A)(1) of this section 32497  
by a local commissioner of health or a local registrar of vital 32498  
statistics shall be forwarded to the ~~treasurer of state~~ department 32499  
of health not later than thirty days following the end of each 32500  
quarter. Not later than two days after the fees are forwarded to 32501  
the department each quarter, the department shall pay the 32502  
collected fees to the treasurer of state in accordance with rules 32503  
adopted by the treasurer of state under section 113.08 of the 32504  
Revised Code. 32505

(2) On the filing of a divorce decree under section 3105.10 32506  
or a decree of dissolution under section 3105.65 of the Revised 32507  
Code, a court of common pleas shall charge and collect a fee of 32508  
five dollars and fifty cents. The fee is in addition to any other 32509  
court costs or fees. The county clerk of courts may retain an 32510  
amount of each additional fee collected, not to exceed three per 32511  
cent of the amount of the additional fee, to be used for costs 32512  
directly related to the collection of the fee and the forwarding 32513

of the fee to the treasurer of state. The additional fees 32514  
collected, but not retained, under division (A)(2) of this section 32515  
shall be forwarded to the treasurer of state not later than twenty 32516  
days following the end of each month. 32517

(B) The treasurer of state shall deposit the fees paid or 32518  
forwarded under this section in the state treasury to the credit 32519  
of the family violence prevention fund, which is hereby created. A 32520  
person or government entity that fails to pay or forward the fees 32521  
in a timely manner, as determined by the treasurer of state, shall 32522  
~~forward~~ send to the treasurer of state, in addition to the fees, a 32523  
penalty equal to ten per cent of the fees. 32524

The treasurer of state shall invest the moneys in the fund. 32525  
All earnings resulting from investment of the fund shall be 32526  
credited to the fund, except that actual administration costs 32527  
incurred by the treasurer of state in administering the fund may 32528  
be deducted from the earnings resulting from investments. The 32529  
amount that may be deducted shall not exceed three per cent of the 32530  
total amount of fees credited to the fund in each fiscal year. The 32531  
balance of the investment earnings shall be credited to the fund. 32532

(C) The director of public safety shall use money credited to 32533  
the fund to provide grants to family violence shelters in Ohio and 32534  
to operate the division of criminal justice services. 32535

**Sec. 3705.30.** (A) As used in this section: 32536

(1) "Freestanding birthing center" has the same meaning as in 32537  
section ~~3702.51~~ 3702.141 of the Revised Code. 32538

(2) "Hospital" means a hospital classified under section 32539  
3701.07 of the Revised Code as a general hospital or children's 32540  
hospital. 32541

(3) "Physician" means an individual authorized under Chapter 32542  
4731. of the Revised Code to practice medicine and surgery or 32543

osteopathic medicine and surgery. 32544

(B) The director of health shall establish and, if funds for 32545  
this purpose are available, implement a statewide birth defects 32546  
information system for the collection of information concerning 32547  
congenital anomalies, stillbirths, and abnormal conditions of 32548  
newborns. 32549

(C) If the system is implemented under division (B) of this 32550  
section, all of the following apply: 32551

(1) The director may require each physician, hospital, and 32552  
freestanding birthing center to report to the system information 32553  
concerning all patients under five years of age with a primary 32554  
diagnosis of a congenital anomaly or abnormal condition. The 32555  
director shall not require a hospital, freestanding birthing 32556  
center, or physician to report to the system any information that 32557  
is reported to the director or department of health under another 32558  
provision of the Revised Code or Administrative Code. 32559

(2) On request, each physician, hospital, and freestanding 32560  
birthing center shall give the director or authorized employees of 32561  
the department of health access to the medical records of any 32562  
patient described in division (C)(1) of this section. The 32563  
department shall pay the costs of copying any medical records 32564  
pursuant to this division. 32565

(3) The director may review vital statistics records and 32566  
shall consider expanding the list of congenital anomalies and 32567  
abnormal conditions of newborns reported on birth certificates 32568  
pursuant to section 3705.08 of the Revised Code. 32569

(D) A physician, hospital, or freestanding birthing center 32570  
that provides information to the system under division (C) of this 32571  
section shall not be subject to criminal or civil liability for 32572  
providing the information. 32573

**Sec. 3706.19.** (A) There is hereby created in the Ohio air 32574  
quality development authority the office of ~~ombudsman~~ ombudsperson 32575  
for the small business stationary source technical and 32576  
environmental compliance assistance program created under section 32577  
3704.18 of the Revised Code. The office shall exercise its duties 32578  
independently of any other state agency. 32579

(B) ~~Not later than one year after the effective date of this~~ 32580  
~~section, the~~ The governor, with the advice and consent of the 32581  
senate, shall appoint the ~~initial ombudsman~~ ombudsperson. The 32582  
~~ombudsman~~ ombudsperson shall serve for a term of four years. The 32583  
person who is appointed to serve as the ~~ombudsman~~ ombudsperson 32584  
shall be experienced in management and in working with private 32585  
enterprise and government entities, knowledgeable in the areas of 32586  
arbitration and negotiation, experienced in interpreting statutory 32587  
and regulatory law, and knowledgeable in investigation techniques 32588  
and procedures, recordkeeping, and report writing. The ~~ombudsman~~ 32589  
ombudsperson may be the highest ranking managerial employee of the 32590  
authority. 32591

(C) The ~~ombudsman~~ ombudsperson shall do all of the following: 32592

(1) Ensure that the goals of the program are being met; 32593

(2) Conduct independent evaluations of all aspects of the 32594  
program; 32595

(3) Review the development and implementation of air 32596  
pollution control requirements that have an impact on small 32597  
businesses in the state and provide comments and recommendations, 32598  
as appropriate, to the environmental protection agency and the 32599  
United States environmental protection agency; 32600

(4) Facilitate and promote the participation of small 32601  
businesses in the development of rules to be adopted under Chapter 32602  
3704. of the Revised Code that affect small businesses; 32603

|  |   |
|--|---|
| (5) Aid in the dissemination of information, including air pollution requirements and control technologies, to small businesses and other interested persons;  | 32604<br>32605<br>32606                   |
| (6) Provide free, confidential assistance on individual source problems and grievances presented by small businesses;  | 32607<br>32608                            |
| (7) Aid in investigating and resolving complaints against, and disputes involving, the agency from small businesses;   | 32609<br>32610                            |
| (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;   | 32611<br>32612<br>32613<br>32614<br>32615 |
| (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;  | 32616<br>32617<br>32618                   |
| (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;  | 32619<br>32620<br>32621<br>32622          |
| (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;  | 32623<br>32624<br>32625                   |
| (12) Conduct studies to evaluate the impacts of the federal Clean Air Act on the state's economy, local economies, and small businesses.   | 32626<br>32627<br>32628                   |
| (D) There is hereby created in the state treasury the small business <del>ombudsman</del> <u>ombudsperson</u> fund, which shall consist of moneys transferred to it from the <u>Title V</u> 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. | 32629<br>32630<br>32631<br>32632<br>32633 |

The director of environmental protection and the executive 32634  
director of the authority annually shall determine the amount of 32635  
moneys necessary for the operation of the office of the ~~ombudsman~~ 32636  
ombudsperson. Thereafter, the director shall request the director 32637  
of budget and management to, and that director shall, transfer 32638  
that amount of moneys from the Title V clean air fund to the small 32639  
business ~~ombudsman~~ ombudsperson fund. 32640

(E) There is hereby created in the state treasury the small 32641  
business assistance fund, which shall consist of moneys credited 32642  
to it under division (K) of section 3745.11 of the Revised Code. 32643  
The ~~ombudsman~~ ombudsperson shall use moneys in the fund solely to 32644  
provide financial assistance to small businesses that have one 32645  
hundred or fewer employees and that are having financial 32646  
difficulty complying with the "Clean Air Act Amendments of 1990," 32647  
104 Stat. 2399, 42 U.S.C.A. 7401, and regulations adopted under 32648  
it. 32649

In accordance with Chapter 119. of the Revised Code, the 32650  
~~ombudsman~~ ombudsperson shall adopt rules establishing procedures 32651  
and requirements governing grants awarded under this division. 32652

**Sec. 3709.03.** (A) There is hereby created in each general 32653  
health district a district advisory council. A council shall 32654  
consist of the president of the board of county commissioners, the 32655  
chief executive of each municipal corporation not constituting a 32656  
city health district, and the president of the board of township 32657  
trustees of each township. The board of county commissioners, the 32658  
legislative body of a municipal corporation, and the board of 32659  
township trustees of a township may select an alternate from among 32660  
themselves to serve if the president, the chief executive, or the 32661  
president of the board of township trustees is unable to attend 32662  
any meeting of the district advisory council. When attending a 32663  
meeting on behalf of a council member, the alternate may vote on 32664

any matter on which the member is authorized to vote. 32665

The council shall organize by selecting a chair and secretary 32666  
from among its members. The council shall adopt bylaws governing 32667  
its meetings, the transaction of business, and voting procedures. 32668

The council shall meet annually in March at a place 32669  
determined by the chair and the health commissioner for the 32670  
purpose of electing the chair and the secretary, making necessary 32671  
appointments to the board of health, receiving and considering the 32672  
annual or special reports from the board of health, and making 32673  
recommendations to the board of health or to the department of 32674  
health in regard to matters for the betterment of health and 32675  
sanitation within the district or for needed legislation. The 32676  
secretary of the council shall notify the district health 32677  
commissioner and the director of health of the proceedings of such 32678  
meeting. 32679

Special meetings of the council shall be held on the order of 32680  
any of the following: 32681

(1) The director of health; 32682

(2) The board of health; 32683

(3) The lesser of five or a majority of district advisory 32684  
council members. 32685

The district health commissioner shall attend all meetings of 32686  
the council. 32687

(B) The district advisory council shall appoint four members 32688  
of the board of health, and the remaining member shall be 32689  
appointed by the health district licensing council established 32690  
under section 3709.41 of the Revised Code. At least one member of 32691  
the board of health shall be a physician. Appointments shall be 32692  
made with due regard to equal representation of all parts of the 32693  
district. 32694

(C) If at an annual or special meeting at which a member of the board of health is to be appointed fewer than a majority of the members of the district council are present, the council, by the majority vote of council members present, may organize an executive committee to make the appointment. An executive committee shall consist of five council members, including the president of the board of county commissioners, the council chair, the council secretary, and two additional council members selected by majority affirmative vote of the council members present at the meeting. The additional members selected shall include one representative of municipal corporations in the district that are not city health districts and one representative of townships in the district. If an individual is eligible for more than one position on the executive committee due to holding a particular office, the individual shall fill one position on the committee and the other position shall be filled by a member selected by a majority affirmative vote of the council members present at the meeting. A council member's alternate for annual meetings may serve as the member's alternate at meetings of the executive committee.

Not later than thirty days after an executive committee is organized, the committee shall meet and the council chair shall present to the committee the matter of appointing a member of the board of health. The committee shall appoint the board member by majority affirmative vote. In the case of a combined health district, the executive committee shall appoint only members of the board of health that are to be appointed by the district advisory council, unless the contract for administration of health affairs in the combined district provides otherwise. If a majority affirmative vote is not reached within thirty days after the executive committee is organized, the director of health shall appoint the member of the board of health under the authority conferred by section 3709.03 of the Revised Code.

If the council fails to meet or appoint a member of the board 32728  
of health as required by this section or section 3709.02 of the 32729  
Revised Code, the director of health, ~~with the consent of the~~ 32730  
~~public health council,~~ may appoint the member. 32731

**Sec. 3709.04.** If in any general health district the district 32732  
advisory council fails to meet or to select a board of health, the 32733  
director of health may, ~~with the consent of the public health~~ 32734  
~~council,~~ appoint a board of health for such district which shall 32735  
have and exercise all powers conferred on a board of health of a 32736  
general health district. 32737

**Sec. 3709.06.** If any city fails to establish a board of 32738  
health under section 3709.05 of the Revised Code, the director of 32739  
health, ~~with the approval of the public health council,~~ may 32740  
appoint a health commissioner for such city, and fix ~~his~~ the 32741  
commissioner's salary and term of office. Such commissioner shall 32742  
have the same powers and perform the duties granted to or imposed 32743  
upon a board of health of a city health district, except that 32744  
rules, regulations, or orders of a general nature, made by ~~him~~ the 32745  
commissioner and required to be published, shall be approved by 32746  
the director. The salary of such commissioner and all necessary 32747  
expenses incurred by ~~him~~ the commissioner in performing the duties 32748  
of the board shall be paid by and be a valid claim against such 32749  
city. 32750

**Sec. 3709.085.** (A) The board of health of a city or general 32751  
health district may enter into a contract with any political 32752  
subdivision or other governmental agency to obtain or provide all 32753  
or part of any services, including, but not limited to, 32754  
enforcement services, for the purposes of Chapter 3704. of the 32755  
Revised Code, the rules adopted and orders made pursuant thereto, 32756  
or any other ordinances or rules for the prevention, control, and 32757

abatement of air pollution. 32758

(B)(1) As used in division (B)(2) of this section: 32759

(a) "Semipublic disposal system" means a disposal system that 32760  
treats the sanitary sewage discharged from publicly or privately 32761  
owned buildings or places of assemblage, entertainment, 32762  
recreation, education, correction, hospitalization, housing, or 32763  
employment, but does not include a disposal system that treats 32764  
sewage in amounts of more than twenty-five thousand gallons per 32765  
day; a disposal system for the treatment of sewage that is exempt 32766  
from the requirements of section 6111.04 of the Revised Code 32767  
pursuant to division (F)(7) of that section; or a disposal system 32768  
for the treatment of industrial waste. 32769

(b) Terms defined in section 6111.01 of the Revised Code have 32770  
the same meanings as in that section. 32771

(2) The board of health of a city or general health district 32772  
may enter into a contract with the environmental protection agency 32773  
to conduct on behalf of the agency inspection or enforcement 32774  
services, for the purposes of Chapter 6111. of the Revised Code 32775  
and rules adopted thereunder, for the disposal or treatment of 32776  
sewage from semipublic disposal systems. The board of health of a 32777  
city or general health district may charge a fee established 32778  
pursuant to section 3709.09 of the Revised Code to be paid by the 32779  
owner or operator of a semipublic disposal system for inspections 32780  
conducted by the board pursuant to a contract entered into under 32781  
division (B)(2) of this section, except that the board shall not 32782  
charge a fee for those inspections conducted at any recreational 32783  
vehicle park, recreation camp, or combined park-camp that is 32784  
licensed under section 3729.05 of the Revised Code or at any 32785  
manufactured home park that is licensed under section ~~3733.03~~ 32786  
4781.27 of the Revised Code. 32787

**Sec. 3709.09.** (A) The board of health of a city or general 32788

health district may, by rule, establish a uniform system of fees 32789  
to pay the costs of any services provided by the board. 32790

The fee for issuance of a certified copy of a vital record or 32791  
a certification of birth shall not be less than the fee prescribed 32792  
for the same service under division (A)(1) of section 3705.24 of 32793  
the Revised Code and shall include the fees required by division 32794  
(B) of section 3705.24 and section 3109.14 of the Revised Code. 32795

Fees for services provided by the board for purposes 32796  
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 32797  
3730.03, and 3749.04 of the Revised Code shall be established in 32798  
accordance with rules adopted under division (B) of this section. 32799  
The district advisory council, in the case of a general health 32800  
district, and the legislative authority of the city, in the case 32801  
of a city health district, may disapprove any fee established by 32802  
the board of health under this division, and any such fee, as 32803  
disapproved, shall not be charged by the board of health. 32804

(B) The ~~public director of health council~~ shall adopt rules 32805  
under section 111.15 of the Revised Code that establish fee 32806  
categories and a uniform methodology for use in calculating the 32807  
costs of services provided for purposes specified in sections 32808  
3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the 32809  
Revised Code. In adopting the rules, the ~~public health council~~ 32810  
director shall consider recommendations it receives from advisory 32811  
boards established either by statute or the director ~~of health~~ for 32812  
entities subject to the fees. 32813

(C) Except when a board of health establishes a fee by 32814  
adopting a rule as an emergency measure, the board of health shall 32815  
hold a public hearing regarding each proposed fee for a service 32816  
provided by the board for a purpose specified in section 3701.344, 32817  
3711.10, 3718.06, 3729.07, 3730.03, or 3749.04 of the Revised 32818  
Code. If a public hearing is held, at least twenty days prior to 32819  
the public hearing the board shall give written notice of the 32820

hearing to each entity affected by the proposed fee. The notice 32821  
shall be mailed to the last known address of each entity and shall 32822  
specify the date, time, and place of the hearing and the amount of 32823  
the proposed fee. 32824

(D) If payment of a fee established under this section is not 32825  
received by the day on which payment is due, the board of health 32826  
shall assess a penalty. The amount of the penalty shall be equal 32827  
to twenty-five per cent of the applicable fee. 32828

(E) All rules adopted by a board of health under this section 32829  
shall be adopted, recorded, and certified as are ordinances of 32830  
municipal corporations and the record thereof shall be given in 32831  
all courts the same effect as is given such ordinances, but the 32832  
advertisements of such rules shall be by publication in one 32833  
newspaper of general circulation within the health district. 32834  
Publication shall be made once a week for two consecutive weeks or 32835  
as provided in section 7.16 of the Revised Code, and such rules 32836  
shall take effect and be in force ten days from the date of the 32837  
first publication. 32838

**Sec. 3709.092.** (A) A board of health of a city or general 32839  
health district shall transmit to the director of health all fees 32840  
or additional amounts that the ~~public health council~~ director 32841  
requires to be collected under sections 3701.344, 3718.06, 32842  
3729.07, and 3749.04 of the Revised Code. The fees and amounts 32843  
shall be transmitted according to the following schedule: 32844

(1) For fees and amounts received by the board on or after 32845  
the first day of January but not later than the thirty-first day 32846  
of March, transmit the fees and amounts not later than the 32847  
fifteenth day of May; 32848

(2) For fees and amounts received by the board on or after 32849  
the first day of April but not later than the thirtieth day of 32850  
June, transmit the fees and amounts not later than the fifteenth 32851

day of August; 32852

(3) For fees and amounts received by the board on or after 32853  
the first day of July but not later than the thirtieth day of 32854  
September, transmit the fees and amounts not later than the 32855  
fifteenth day of November; 32856

(4) For fees and amounts received by the board on or after 32857  
the first day of October but not later than the thirty-first day 32858  
of December, transmit the fees and amounts not later than the 32859  
fifteenth day of February of the following year. 32860

(B) The director shall deposit the fees and amounts received 32861  
under this section into the state treasury to the credit of the 32862  
general operations fund created in section 3701.83 of the Revised 32863  
Code. Each amount shall be used solely for the purpose for which 32864  
it was collected. 32865

**Sec. 3709.32.** The president of each board of health providing 32866  
health services in one or more health districts and the chief 32867  
executive officer of each health department providing health 32868  
services in one or more health districts shall, on or before the 32869  
first day of March of each year, certify the amounts expended 32870  
during the preceding calendar year which qualify for state health 32871  
district subsidy funds under section 3701.342 of the Revised Code 32872  
and rules ~~of adopted by the public director of health council~~. The 32873  
director of health shall certify the amount payable under the 32874  
state health district subsidy funds distribution formula adopted 32875  
by the ~~public director of health council~~ under section 3701.342 of 32876  
the Revised Code to the director of budget and management for 32877  
payment. Payment shall not be made unless: 32878

(A) The board or department has provided such information 32879  
concerning services and costs as is requested by the director of 32880  
health; 32881

(B) The certificate of the board of health or health department has been endorsed by the director of health; 32882  
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(C) The board or department has complied with section 32884  
3701.342 of the Revised Code and ~~public health council~~ rules 32885  
adopted by the director of health; 32886

(D) The municipal corporations and townships composing the health district have provided adequate local funding for public health services. The ~~public~~ director of health ~~council~~ shall determine what constitutes adequate local funding, and may grant an exception to this requirement to a municipal corporation or township if unusually severe economic conditions prevent it from receiving adequate tax revenues to help support minimally acceptable public health services. 32887  
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No state health district subsidy funds shall be granted to any board or department that decreases its appropriation for public health services in anticipation of using state funds to provide public health services normally supported by local revenues. 32895  
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**Sec. 3709.35.** If the director of health ~~finds~~ charges that the health commissioner or a member of the board of health of a 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, 3707.08, 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. 32900  
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If the lesser of three or one-fifth of the members of a 32912

district advisory council have reason to believe a member of the 32913  
board of health of a general health district is guilty of 32914  
misfeasance, malfeasance, or nonfeasance or has failed to perform 32915  
any or all of the duties required by sections 3701.10, 3701.29, 32916  
3701.81, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the 32917  
Revised Code, the district advisory council members shall prefer a 32918  
charge against the board member before the district advisory 32919  
council and shall notify the board member as to the time and place 32920  
at which such charges will be heard. If a majority of the council, 32921  
after hearing, finds the board member guilty of the charge, it may 32922  
remove the member from office. 32923

When any member of the board of health of a general or city 32924  
health district is removed from office, the district advisory 32925  
council or the chief executive of the city, upon notice of such 32926  
removal, shall within thirty days after receipt of such notice 32927  
fill the vacancy in accordance with section 3709.03 or 3709.05 of 32928  
the Revised Code. 32929

**Sec. 3710.01.** As used in this chapter: 32930

(A) "Asbestos" means the asbestiform varieties of chrysotile 32931  
or serpentine, amosite or cummingtonitegrunerite, crocidolite or 32932  
riebeckite, actinolite, tremolite, and anthophyllite. 32933

(B) "Asbestos hazard abatement activity" means any activity 32934  
involving the removal, renovation, enclosure, repair, or 32935  
encapsulation of reasonably related friable asbestos-containing 32936  
materials in an amount greater than fifty linear feet or fifty 32937  
square feet. "Asbestos hazard abatement activity" also includes 32938  
any such activity involving such asbestos-containing materials in 32939  
an amount of fifty linear or fifty square feet or less if, when 32940  
combined with any other reasonably related activity in terms of 32941  
time and location of the activity, the total amount is in an 32942  
amount greater than fifty linear or fifty square feet. 32943

(C) "Asbestos hazard abatement contractor" means a business 32944  
entity or public entity that engages in or intends to engage in 32945  
asbestos hazard abatement activities and that employs or 32946  
supervises one or more asbestos hazard abatement specialists for 32947  
asbestos hazard abatement activities. "Asbestos hazard abatement 32948  
contractor" does not mean an employee of an asbestos hazard 32949  
abatement contractor, a general contractor who subcontracts to an 32950  
asbestos hazard abatement contractor an asbestos hazard abatement 32951  
activity, or any individual who engages in asbestos hazard 32952  
abatement activity in ~~his~~ the individual's own home. 32953

(D) "Asbestos hazard abatement project" means one or more 32954  
asbestos hazard abatement activities that are conducted by one 32955  
asbestos hazard abatement contractor and that are reasonably 32956  
related to each other. 32957

(E) "Asbestos hazard abatement specialist" means a person 32958  
with responsibility for the oversight or supervision of asbestos 32959  
hazard abatement activities, including asbestos hazard abatement 32960  
project managers, hazard abatement project supervisors and 32961  
foremen, and employees of school districts or other governmental 32962  
or public entities who coordinate or directly supervise or oversee 32963  
asbestos hazard abatement activities performed by school district, 32964  
governmental, or other public employees in school district, 32965  
governmental, or other public buildings. 32966

(F) "Asbestos hazard evaluation specialist" means a person 32967  
responsible for the identification, detection, and assessment of 32968  
asbestos-containing materials, the determination of appropriate 32969  
response actions, or the preparation of asbestos management plans 32970  
for the purpose of protecting the public health from the hazards 32971  
associated with exposure to asbestos, including the performance of 32972  
air and bulk sampling. This category of specialists includes 32973  
management planners, health professionals, industrial hygienists, 32974  
private consultants, or other individuals involved in asbestos 32975

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| risk identification or assessment or regulatory activities.   | 32976   |
| (G) "Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern.  | 32977<br>32978  |
| (H) "Public entity" means the state or any of its political subdivisions or any agency or instrumentality of either.  | 32979<br>32980  |
| (I) "License" means a document issued by the department of health to a business entity or public entity affirming that the entity has met the requirements set forth in this chapter to engage in asbestos hazard abatement activities as an asbestos hazard abatement contractor.  | 32981<br>32982<br>32983<br>32984<br>32985                                     |
| (J) "Certificate" means:  | 32986   |
| (1) A document issued by the department to an individual affirming that the individual has successfully completed the training and other requirements set forth in this chapter to qualify as an asbestos hazard abatement specialist, an asbestos hazard evaluation specialist, an asbestos hazard abatement worker, an asbestos hazard abatement project designer, an asbestos hazard abatement air-monitoring technician, an approved asbestos hazard training provider, or other category of asbestos hazard specialist that the <del>public health council</del> <u>director</u> establishes by rule; or | 32987<br>32988<br>32989<br>32990<br>32991<br>32992<br>32993<br>32994<br>32995 |
| (2) A document issued by a training institution in accordance with rules adopted by the <del>public health council</del> <u>director</u> affirming that an individual has successfully completed the instruction required in all categories as provided in sections 3710.07 and 3710.10 of the Revised Code.  | 32996<br>32997<br>32998<br>32999<br>33000                                     |
| (K) "Person" means any individual, business entity, governmental body, or other public or private entity.   | 33001<br>33002  |
| (L) "Encapsulate" means to coat, bind, or resurface walls, ceilings, pipes, or other structures to prevent friable asbestos from becoming airborne.   | 33003<br>33004<br>33005   |

(M) "Friable asbestos-containing material" means any material 33006  
that contains more than one per cent asbestos by weight and that 33007  
can be crumbled, pulverized, or reduced to powder, when dry, by 33008  
hand pressure. 33009

(N) "Enclosure" means the permanent confinement of friable 33010  
asbestos-containing materials with an airtight barrier in an area 33011  
not used as an air plenum. 33012

(O) "Renovation" means the removal or stripping of friable 33013  
asbestos-containing materials used on any pipe, duct, boiler, 33014  
tank, reactor, turbine, furnace, or load supporting member. 33015

(P) "Asbestos hazard abatement worker" means the person 33016  
responsible in a nonsupervisory capacity for the performance of an 33017  
asbestos hazard abatement activity. 33018

(Q) "Asbestos hazard abatement project designer" means the 33019  
person responsible for the determination of the workscope, work 33020  
sequence, or performance standards for an asbestos hazard 33021  
abatement activity, including preparation of specifications, 33022  
plans, and contract documents. 33023

(R) "Director" means the director of health or ~~his~~ the 33024  
director's authorized representative. 33025

(S) "Clearance air sampling" means an air sampling performed 33026  
after the completion of any asbestos hazard abatement activity and 33027  
prior to the reoccupation of the contained work area by the public 33028  
and conducted for the purpose of protecting the public from the 33029  
health hazards associated with exposure to friable 33030  
asbestos-containing material. 33031

(T) "Asbestos hazard abatement air-monitoring technician" 33032  
means the person who is responsible for environmental monitoring 33033  
or work area clearance air sampling, including air monitoring 33034  
performed to determine completion of response actions under the 33035  
rules set forth in 40 C.F.R. 763 Subpart E, adopted by the United 33036

States environmental protection agency pursuant to the "Asbestos Hazard Emergency Response Act of 1986," Pub. L. 99-519, 100 Stat. 2970. "Asbestos hazard abatement air-monitoring technician" does not mean an industrial hygienist or industrial hygienist in training, certified by the American board of industrial hygiene.

**Sec. 3710.02.** (A) ~~Subject to~~ In accordance with Chapter 119. of the Revised Code, the ~~public~~ director of health ~~council~~ shall, as ~~it~~ the director determines necessary, adopt rules to carry out this chapter. The rules shall include all of the following:

(1) Criteria and procedures for the certification of asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement workers, asbestos hazard abatement project designers, and asbestos hazard abatement air-monitoring technicians by the director of health;

(2) Criteria and procedures for the director to examine the records of licensees, certificate holders, and asbestos hazard abatement training schools;

(3) Procedures and criteria in addition to those provided in this chapter for the approval of courses for asbestos hazard training;

(4) Fees for licenses, certifications, and course approvals in excess of the levels set in section 3710.05 of the Revised Code and fees for the certification of asbestos hazard abatement air-monitoring technicians;

(5) Levels of asbestos exposure or other circumstances constituting a public health emergency that authorize the director to issue an emergency order under division (B) of section 3710.13 of the Revised Code;

(6) Employee training standards, work practices that reduce the risk of contamination and recontamination of the environment,

record-keeping requirements, action levels, project clearance 33067  
levels, and other requirements that asbestos hazard abatement 33068  
contractors, asbestos hazard abatement specialists, asbestos 33069  
hazard evaluation specialists, asbestos hazard abatement project 33070  
designers, asbestos hazard abatement air-monitoring technicians, 33071  
asbestos hazard abatement workers, and other persons involved with 33072  
asbestos hazard abatement activities must follow for the 33073  
prevention of hazard to the public; 33074

(7) Worker protection equipment and practices and other 33075  
health and safety standards for employees and agents of public 33076  
entities coming in contact with asbestos through asbestos hazard 33077  
abatement activity; 33078

(8) Standards of acceptable conduct for licensees and 33079  
certificate holders engaged in asbestos hazard abatement or 33080  
evaluation activities and acts and omissions that constitute 33081  
grounds for the suspension or revocation of a license or 33082  
certificate, or the denial of an application or renewal of a 33083  
license or certificate in addition to those otherwise provided in 33084  
this chapter; 33085

(9) Training requirements for asbestos hazard abatement 33086  
project designers and asbestos hazard abatement air-monitoring 33087  
technicians; 33088

(10)(a) Subject to the condition specified in division 33089  
(A)(10)(b) of this section, a standard requiring that the amount 33090  
of asbestos contained in the air in areas accessible to the public 33091  
in buildings that are owned, operated, or leased by a public 33092  
entity be not more than ten thousand asbestos fibers longer than 33093  
five microns per cubic meter of air calculated as an eight-hour 33094  
time-weighted average, which is measured during periods of normal 33095  
building occupancy, and a requirement that measurement of airborne 33096  
asbestos be made by either or both of the following methods, 33097  
provided that results derived by use of the method described in 33098

division (A)(10)(a)(i) of this section supersede results derived 33099  
by use of the method described in division (A)(10)(a)(ii) of this 33100  
section if both methods are used and the methods yield conflicting 33101  
results concerning the presence of fibers in the tested air that 33102  
may not be asbestos: 33103

(i) Transmission electron microscopy in the manner described 33104  
in the measurement protocol established by the United States 33105  
environmental protection agency as set forth in 40 C.F.R. 763; 33106

(ii) Optical phase contrast microscopy in the manner 33107  
described in the measurement protocol established by the United 33108  
States occupational safety and health administration as set forth 33109  
in 29 C.F.R. 1910. 33110

(b) The ~~public health council~~ director periodically shall 33111  
review the standard required by division (A)(10)(a) of this 33112  
section and determine whether and how it should be amended and how 33113  
it shall be used in conjunction with visual and physical 33114  
assessment of asbestos-containing materials located in buildings 33115  
that are owned, operated, or leased by a public entity to 33116  
determine appropriate and cost-effective response actions to such 33117  
asbestos-containing materials and shall amend the standard if it 33118  
determines that such action is necessary. 33119

(11) Other rules that the ~~public health council~~ director 33120  
determines necessary for the implementation of this chapter and to 33121  
protect the public health from the hazards associated with 33122  
exposure to asbestos. 33123

(B) The director shall do all of the following: 33124

(1) Administer and enforce this chapter and the rules ~~of the~~ 33125  
~~public health council~~ adopted pursuant thereto; 33126

(2) Develop comprehensive programs and policies for the 33127  
control and prevention of nonoccupational exposure of the public 33128  
to friable asbestos-containing materials; 33129

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| (3) Ensure that persons are trained and licensed or certified, where appropriate, in accordance with this chapter and the rules <del>of the public health council</del> adopted pursuant thereto;  | 33130<br>33131<br>33132   |
| (4) Examine those records of licensed asbestos hazard abatement contractors, certified asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, and asbestos hazard training courses in accordance with rules adopted by the <del>public health council</del> <u>director</u> as <del>he</del> <u>the director</u> determines necessary to determine compliance with this chapter and the rules <del>of the public health council</del> adopted pursuant thereto; | 33133<br>33134<br>33135<br>33136<br>33137<br>33138<br>33139<br>33140<br>33141 |
| (5) Prohibit and prevent improper asbestos hazard abatement procedures and require the modification or alteration of asbestos abatement procedures as they relate to this chapter and the rules <del>of the public health council</del> adopted pursuant thereto;  | 33142<br>33143<br>33144<br>33145  |
| (6) Collect and disseminate health education information relating to safe management of asbestos hazards;  | 33146<br>33147  |
| (7) Accept and administer grants from the federal government and other sources, both public and private, for carrying out any of <del>his</del> <u>the director's</u> functions;   | 33148<br>33149<br>33150   |
| (8) As <del>he</del> <u>the director</u> determines appropriate, conduct on-site inspections at any location where an asbestos hazard abatement activity is planned, in progress, or has been completed, at any location where a public health emergency may occur, is occurring, or has occurred, or to evaluate the performance or compliance of any person subject to this chapter;   | 33151<br>33152<br>33153<br>33154<br>33155<br>33156                            |
| (9) Conduct an on-site audit of each asbestos hazard training provider approved pursuant to this chapter, at least once biennially, during an actual course conducted by the provider within the state;  | 33157<br>33158<br>33159<br>33160  |

(10) Cooperate and assist in investigations, as such relate 33161  
to this chapter, conducted by local law enforcement agencies, the 33162  
Ohio environmental protection agency, the United States 33163  
occupational safety and health administration, and other local, 33164  
state, and federal agencies. 33165

**Sec. 3710.04.** (A) To qualify for an asbestos hazard abatement 33166  
contractor's license, a business entity or public entity shall 33167  
meet the requirements of this section. 33168

(B) Each employee or agent of the business entity or public 33169  
entity applying for a license who will come in contact with 33170  
asbestos or will be responsible for an asbestos hazard abatement 33171  
project shall: 33172

(1) Be familiar with all applicable state and federal 33173  
standards for asbestos hazard abatement projects; 33174

(2) Have successfully completed the course of instruction on 33175  
asbestos hazard abatement activities, for their particular 33176  
certification, approved by the department of health pursuant to 33177  
section 3710.10 of the Revised Code, have passed an examination 33178  
approved by the department, and demonstrate to the department that 33179  
~~he~~ the employee or agent is capable of complying with all 33180  
applicable standards of this state, the United States 33181  
environmental protection agency, and the United States 33182  
occupational safety and health administration. 33183

(C) A business entity or public entity applying for an 33184  
asbestos hazard abatement contractor's license shall, in addition 33185  
to the other requirements of this section, provide at least one 33186  
asbestos hazard abatement specialist, certified pursuant to this 33187  
chapter and the rules ~~of the public health council~~ adopted 33188  
~~pursuant thereto~~ under it, for each asbestos hazard abatement 33189  
project, and demonstrate to the satisfaction of the department 33190  
that ~~he~~ the applicant: 33191

- (1) Has access to at least one asbestos disposal site approved by the Ohio environmental protection agency that is sufficient for the deposit of all asbestos waste that ~~he~~ the applicant will generate during the term of the license;
- (2) Is sufficiently qualified to safely remove asbestos, demonstrated by reliability as an asbestos hazard abatement contractor, possesses a work program that prevents the contamination or recontamination of the environment and protects the public health from the hazards of exposure to asbestos, possesses evidence of certification of each individual employee or agent who will be responsible for others who may come in contact with friable asbestos-containing materials, possesses evidence of training of workers required by section 3710.07 of the Revised Code, and has prior successful experience in asbestos hazard abatement projects or equivalent qualifications as determined ~~by~~ rule in accordance with rules adopted by the public director of health council;
- (3) Possesses a worker protection program consistent with requirements established by the ~~public health council~~ director if the contractor is a public entity, and a worker protection program consistent with the requirements of the United States occupational safety and health administration if the contractor is a business entity;
- (4) Is registered as a business entity with the secretary of state.
- (D) No applicant for licensure as an asbestos hazard abatement contractor, in order to meet the requirements of this chapter, shall list an employee of another contractor.
- (E) The business entity or public entity shall meet any other standards that the ~~public health council~~ director, by rule, sets.
- (F) Nothing in this chapter or the rules adopted pursuant

thereto relating to asbestos hazard abatement project designers 33223  
shall be interpreted as authorizing or permitting an individual 33224  
who is certified as an asbestos hazard abatement project designer 33225  
to perform the services of a registered architect or professional 33226  
engineer unless that person is registered under Chapter 4703. or 33227  
4733. of the Revised Code to perform such services. 33228

**Sec. 3710.05.** (A) Except as otherwise provided in this 33229  
chapter, no person shall engage in any asbestos hazard abatement 33230  
activities in this state unless licensed or certified pursuant to 33231  
this chapter. 33232

(B) To apply for licensure as an asbestos abatement 33233  
contractor or certification as an asbestos hazard abatement 33234  
specialist, an asbestos hazard evaluation specialist, an asbestos 33235  
hazard abatement project designer, or an asbestos hazard abatement 33236  
air-monitoring technician, a person shall do all of the following: 33237

(1) Submit a completed application to the department of 33238  
health, on a form provided by the department; 33239

(2) Pay the requisite fee as provided in division (D) of this 33240  
section; 33241

(3) Submit any other information the ~~public~~ director of 33242  
health ~~council~~ by rule requires. 33243

(C) The application form for a business entity or public 33244  
entity applying for an asbestos hazard abatement contractor's 33245  
license shall include all of the following: 33246

(1) A description of the protective clothing and respirators 33247  
that the public entity will use to comply with rules adopted by 33248  
the ~~public health council~~ director and that the business entity 33249  
will use to comply with requirements of the United States 33250  
occupational safety and health administration; 33251

(2) A description of procedures the business entity or public 33252

|  |       |
|--|-------|
| entity will use for the selection, utilization, handling, removal, | 33253 |
| and disposal of clothing to prevent contamination or               | 33254 |
| recontamination of the environment and to protect the public       | 33255 |
| health from the hazards associated with exposure to asbestos;      | 33256 |
| (3) The name and address of each asbestos disposal site that       | 33257 |
| the business entity or public entity might use during the year;    | 33258 |
| (4) A description of the site decontamination procedures that      | 33259 |
| the business entity or public entity will use;                     | 33260 |
| (5) A description of the asbestos hazard abatement procedures      | 33261 |
| that the business entity or public entity will use;                | 33262 |
| (6) A description of the procedures that the business entity       | 33263 |
| or public entity will use for handling waste containing asbestos;  | 33264 |
| (7) A description of the air-monitoring procedures that the        | 33265 |
| business entity or public entity will use to prevent contamination | 33266 |
| or recontamination of the environment and to protect the public    | 33267 |
| health from the hazards of exposure to asbestos;                   | 33268 |
| (8) A description of the final clean-up procedures that the        | 33269 |
| business entity or public entity will use;                         | 33270 |
| (9) A list of all partners, owners, and officers of the            | 33271 |
| business entity along with their social security numbers;          | 33272 |
| (10) The federal tax identification number of the business         | 33273 |
| entity or the public entity.                                       | 33274 |
| (D) The fees to be charged to each public entity and business      | 33275 |
| entity and their employees and agents for licensure,               | 33276 |
| certification, approval, and renewal of licenses, certifications,  | 33277 |
| and approvals granted under this chapter, subject to division      | 33278 |
| (A)(4) of section 3710.02 of the Revised Code, are:                | 33279 |
| (1) Seven hundred fifty dollars for asbestos hazard abatement      | 33280 |
| contractors;   | 33281 |
| (2) Two hundred dollars for asbestos hazard abatement project      | 33282 |

|   |   |
|---|---|
| designers;  | 33283   |
| (3) Fifty dollars for asbestos hazard abatement workers;  | 33284   |
| (4) Two hundred dollars for asbestos hazard abatement<br>specialists;   | 33285<br>33286  |
| (5) Two hundred dollars for asbestos hazard evaluation<br>specialists; and  | 33287<br>33288  |
| (6) Nine hundred dollars for approval or renewal of asbestos<br>hazard training providers.  | 33289<br>33290  |
| (E) Notwithstanding division (A) of this section, no business<br>entity which engages in asbestos hazard abatement activities<br>solely at its own place of business is required to be licensed as<br>an asbestos hazard abatement contractor provided that the business<br>entity is required to and does comply with all applicable<br>standards of the United States environmental protection agency and<br>the United States occupational safety and health administration<br>and provided further that all persons employed by the business<br>entity on the activity meet the requirements of this chapter. | 33291<br>33292<br>33293<br>33294<br>33295<br>33296<br>33297<br>33298<br>33299 |
| <b>Sec. 3710.051.</b> No person shall enter into an agreement to<br>perform any aspect of an asbestos hazard abatement project unless<br>the agreement is written and contains at least all of the<br>following:  | 33300<br>33301<br>33302<br>33303  |
| (A) A requirement that all persons working on the project are<br>licensed or certified by the department of health as required by<br>this chapter;  | 33304<br>33305<br>33306   |
| (B) A requirement that all project clearance levels and<br>sampling be in accordance with <del>the public health council</del> rules<br><u>adopted by the director of health;</u>   | 33307<br>33308<br>33309   |
| (C) A requirement that all clearance air-monitoring be<br>conducted by asbestos hazard abatement air-monitoring technicians<br>or asbestos hazard evaluation specialists certified by the   | 33310<br>33311<br>33312   |

department. 33313

**Sec. 3710.06.** (A) Within fifteen business days after 33314  
receiving an application, the department of health shall 33315  
acknowledge receipt of the application and notify the applicant of 33316  
any deficiency in the application. Within sixty calendar days 33317  
after receiving a completed application, including all additional 33318  
information requested by the department, the department shall 33319  
issue a license or certificate or deny the application. The 33320  
department shall issue only one license or certificate that is in 33321  
effect at one time to a business entity and its principal officers 33322  
and a public entity and its principal officers. 33323

(B)(1) The department shall deny an application if it 33324  
determines that the applicant has not demonstrated the ability to 33325  
comply fully with all applicable federal and state requirements 33326  
and all requirements, procedures, and standards established by the 33327  
~~public director of health council~~ in this chapter. 33328

(2) The department shall deny any application for an asbestos 33329  
hazard abatement contractor's license if the applicant or an 33330  
officer or employee of the applicant has been convicted of a 33331  
felony under any state or federal law designed to protect the 33332  
environment. 33333

(3) The department shall send all denials of an application 33334  
by certified mail to the applicant. If the department receives a 33335  
timely request for a hearing from the applicant, as provided in 33336  
division (D) of section 3710.13 of the Revised Code, the 33337  
department shall hold a hearing in accordance with Chapter 119. of 33338  
the Revised Code. 33339

(C) In an emergency that results from a sudden, unexpected 33340  
event that is not a planned asbestos hazard abatement project, the 33341  
department may waive the requirements for a license or 33342  
certificate. For the purposes of this division, "emergency" 33343

includes operations necessitated by nonroutine failures of 33344  
equipment or by actions of fire and emergency medical personnel 33345  
pursuant to duties within their official capacities. Any person 33346  
who performs an asbestos hazard abatement activity under emergency 33347  
conditions shall notify the director within three days after 33348  
performance thereof. 33349

(D) Each license or certificate issued under this chapter 33350  
expires one year after the date of issue, but each licensee or 33351  
certificate holder may apply to the department for the extension 33352  
of ~~his~~ the holder's license or certificate under the standard 33353  
renewal procedures of Chapter 4745. of the Revised Code. 33354

To qualify for renewal of a license or certificate issued 33355  
under this chapter, each licensee or certificate holder shall send 33356  
the appropriate renewal fee set forth in division (D) of section 33357  
3710.05 of the Revised Code or as adopted by rule by the ~~public~~ 33358  
~~health council~~ director pursuant to division (A)(4) of section 33359  
3710.02 of the Revised Code. 33360

Certificate holders also shall successfully complete an 33361  
annual renewal course approved by the department pursuant to 33362  
section 3710.10 of the Revised Code. 33363

(E) The department may charge a fee in addition to those 33364  
specified in division (D) of section 3710.05 of the Revised Code 33365  
or in ~~rule of~~ rules adopted by the ~~public health council~~ director 33366  
pursuant to division (A)(4) of section 3710.02 of the Revised Code 33367  
if the licensee or certificate holder applies for renewal after 33368  
the expiration thereof or requests a reissuance of any license or 33369  
certificate, provided that no such fee shall exceed the original 33370  
fees by more than fifty per cent. 33371

**Sec. 3710.07.** (A) Prior to engaging in any asbestos hazard 33372  
abatement project, an asbestos hazard abatement contractor shall 33373  
do all of the following: 33374

(1) Prepare a written respiratory protection program as 33375  
defined by the ~~public~~ director of health council pursuant to rule, 33376  
and make the program available to the department of health, and 33377  
workers at the job site if the contractor is a public entity or 33378  
prepare a written respiratory protection program, consistent with 33379  
29 C.F.R. 1910.134 and make the program available to the 33380  
department, and workers at the job site if the contractor is a 33381  
business entity; 33382

(2) Ensure that each worker who will be involved in any 33383  
asbestos hazard abatement project has been examined within the 33384  
preceding year and has been declared by a physician to be 33385  
physically capable of working while wearing a respirator; 33386

(3) Ensure that each of the contractor's employees or agents 33387  
who will come in contact with asbestos-containing materials or 33388  
will be responsible for an asbestos hazard abatement project 33389  
receives the appropriate certification or licensure required by 33390  
this chapter and the following training: 33391

(a) An initial course approved by the department pursuant to 33392  
section 3710.10 of the Revised Code, completed before engaging in 33393  
any asbestos hazard abatement project; and 33394

(b) An annual review course approved by the department 33395  
pursuant to section 3710.10 of the Revised Code. 33396

(B) After obtaining or renewing a license, an asbestos hazard 33397  
abatement contractor shall notify the department, on a form 33398  
approved by the director of health, at least ten days before 33399  
beginning each asbestos hazard abatement project conducted during 33400  
the term of the contractor's license. 33401

(C) In addition to any other fee imposed under this chapter, 33402  
an asbestos hazard abatement contractor shall pay, at the time of 33403  
providing notice under division (B) of this section, the 33404  
department a fee of sixty-five dollars for each asbestos hazard 33405

abatement project conducted. 33406

**Sec. 3710.08.** (A) An asbestos hazard abatement contractor 33407  
engaging in any asbestos hazard abatement project shall, during 33408  
the course of the project: 33409

(1) Conduct each project in a manner that is in compliance 33410  
with the requirements the director of environmental protection 33411  
adopts pursuant to section 3704.03 of the Revised Code and the 33412  
asbestos requirements of the United States occupational safety and 33413  
health administration set forth in 29 C.F.R. 1926.58; 33414

(2) Comply with all applicable rules adopted by the ~~public~~ 33415  
director of health council pursuant to section 3710.02 of the 33416  
Revised Code. 33417

(B) An asbestos hazard abatement contractor that is a public 33418  
entity shall: 33419

(1) Provide workers with protective clothing and equipment 33420  
and ensure that the workers involved in any asbestos hazard 33421  
abatement project use the items properly. Protective clothing and 33422  
equipment shall include: 33423

(a) Respirators approved by the national institute of 33424  
occupational safety and health. These respirators shall be fit 33425  
tested in accordance with requirements of the United States 33426  
occupational safety and health administration set forth in 29 33427  
C.F.R. 1926.58(h). At the request of an employee, the asbestos 33428  
hazard abatement contractor shall provide the employee with a 33429  
powered air purifying respirator, in which case, the testing 33430  
requirements of division (B)(1)(a) of this section do not apply. 33431

(b) Items required by the ~~public~~ director of health council 33432  
by rule as provided in division (A)(7) of section 3710.02 of the 33433  
Revised Code. 33434

(2) Comply with all applicable standards of conduct and 33435

requirements adopted by ~~the public health council~~ and the director  
of health pursuant to section 3710.02 of the Revised Code. 33436  
33437

(C) An asbestos hazard abatement specialist engaging in any 33438  
asbestos hazard abatement project shall, during the course of the 33439  
project: 33440

(1) Conduct each project in a manner that will meet 33441  
decontamination procedures, project containment procedures, and 33442  
asbestos fiber dispersal methods as provided in division (A)(6) of 33443  
section 3710.02 of the Revised Code; 33444

(2) Ensure that workers utilize, handle, remove, and dispose 33445  
of the disposable clothing provided by abatement contractors in a 33446  
manner that will prevent contamination or recontamination of the 33447  
environment and protect the public health from the hazards of 33448  
exposure to asbestos; 33449

(3) Ensure that workers utilize protective clothing and 33450  
equipment and comply with the applicable health and safety 33451  
standards set forth in division (A) of section 3710.08 of the 33452  
Revised Code; 33453

(4) Ensure that there is no smoking, eating, or drinking in 33454  
the work area; 33455

(5) Comply with all applicable standards of conduct and 33456  
requirements adopted by the ~~public health council~~ and director of 33457  
health pursuant to section 3710.02 of the Revised Code. 33458

(D) An asbestos hazard evaluation specialist engaged in the 33459  
identification, detection, and assessment of asbestos-containing 33460  
materials, the determination of appropriate response actions, or 33461  
other activities associated with an abatement project or the 33462  
preparation of management plans, shall comply with the applicable 33463  
standards of conduct and requirements adopted by ~~the public health~~  
~~council~~ and the director of health pursuant to section 3710.02 of 33464  
the Revised Code. 33465  
33466

(E) Every asbestos hazard abatement worker shall comply with all applicable standards adopted by the ~~public~~ director of health council pursuant to section 3710.02 of the Revised Code.

(F) The department may, on a case-by-case basis, approve an alternative to the worker protection requirements of divisions (A), (B), and (C) of this section for an asbestos hazard abatement project conducted by a public entity, provided that the asbestos hazard abatement contractor submits the alternative procedure to the department in writing and demonstrates to the satisfaction of the department that the proposed alternative procedure provides equivalent worker protection.

**Sec. 3710.09.** (A) As a means of protecting the public, each 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:

(1) The name, social security number, and address of the person who supervised the asbestos hazard abatement project;

(2) The names and social security numbers of all workers at the job site;

(3) The location and description of the asbestos hazard abatement project and the amount of asbestos-containing material that was removed;

(4) The starting and completion dates of each asbestos hazard abatement project;

(5) A summary of the procedures that were used to comply with all applicable federal, state, and local standards;

(6) The name and address of each asbestos disposal site where the waste containing asbestos was deposited; 33497  
33498

(7) Any other information that the ~~public~~ director of health council, by rule, requires. 33499  
33500

**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~~ director of health council 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 department. 33501  
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(B) In order to obtain or renew department approval, a person sponsoring a course shall substantially satisfy all of the following criteria: 33517  
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33519

(1) Provide courses of instruction and examinations that meet the requirements of division (A) of this section; 33520  
33521

(2) Ensure that instruction is given or supervised by personnel with sufficient education and experience as determined ~~by rule,~~ in rules adopted by the ~~public health council~~ director; 33522  
33523  
33524

(3) Maintain lists of students trained and the dates on which training occurred for at least twenty years, and make this 33525  
33526

information available to the department upon request. 33527

(C) In order to obtain or renew department approval, a person 33528  
sponsoring an initial course or a review course annually shall 33529  
apply to the department for approval. In applying, the person 33530  
shall submit the fee set forth in division (D) of section 3710.05 33531  
of the Revised Code along with any increase in fee adopted 33532  
pursuant to division (A)(4) of section 3710.02 of the Revised 33533  
Code. 33534

(D)(1) The department shall act or acknowledge receipt of an 33535  
application within ten working days after receiving the 33536  
application. 33537

(2) The department shall act on the application within ninety 33538  
days after it is complete. 33539

(3) The department shall grant contingent approval of an 33540  
application if the department determines the course substantially 33541  
satisfies or will substantially satisfy the criteria in this 33542  
chapter and the rules adopted by the ~~public health council~~ 33543  
director. 33544

(4) The department may deny or revoke approval of a course if 33545  
the department determines the course does not or will not 33546  
substantially satisfy the criteria in this chapter or the rules 33547  
adopted by the ~~public health council~~ director. 33548

(5) The department shall grant final approval of a course 33549  
only after an on-site audit by the department which reveals that 33550  
the course substantially satisfies the criteria in this chapter 33551  
and the rules adopted by the ~~public health council~~ director. 33552  
Course approvals expire one year from the date of final approval 33553  
under division (D)(5) of this section. 33554

(E) Each course approval issued under this section expires 33555  
one year after the date of issue, but a person who received 33556  
approval may apply to the department for renewal under the 33557

standard renewal procedures of Chapter 4745. of the Revised Code. 33558  
The fee prescribed in section 3710.05 of the Revised Code must 33559  
accompany the application. 33560

**Sec. 3710.12.** Subject to the hearing provisions of this 33561  
chapter, the department of health may deny, suspend, or revoke any 33562  
license or certificate, or renewal thereof, if the licensee or 33563  
certificate holder: 33564

(A) Fraudulently or deceptively obtains or attempts to obtain 33565  
a license or certificate; 33566

(B) Fails at any time to meet the qualifications for a 33567  
license or certificate; 33568

(C) Is violating or threatening to violate any provisions of 33569  
any of the following: 33570

(1) This chapter or the rules of the ~~public health council or~~ 33571  
director of health adopted pursuant thereto; 33572

(2) The "National Emission Standard for Hazardous Air 33573  
Pollutants" regulations of the United States environmental 33574  
protection agency as the regulations pertain to asbestos; ~~or~~ 33575

(3) The regulations of the United States occupational safety 33576  
and health administration as the regulations pertain to asbestos. 33577

**Sec. 3710.13.** (A) Except as otherwise provided in Chapter 33578  
119. of the Revised Code or this section, before the department of 33579  
health takes any action under section 3710.12 of the Revised Code, 33580  
it shall give the licensee or certificate holder against whom 33581  
action is contemplated an opportunity for a hearing. 33582

Except as otherwise provided in this section, the department 33583  
shall give notice and hold the hearing in accordance with Chapter 33584  
119. of the Revised Code. 33585

(B) The department, without notice or hearing and in 33586

accordance with ~~the~~ rules ~~of~~ adopted by the public director of 33587  
health ~~council~~, may issue an order requiring any action necessary 33588  
to meet a public health emergency involving asbestos. Any person 33589  
to whom an order is directed shall immediately comply with the 33590  
order. Upon application to the director of health, the person 33591  
shall be afforded a hearing as soon as possible, but no more than 33592  
twenty days after receipt of the application by the director. 33593

(C) If the director determines, pursuant to division (B) of 33594  
this section, that a public health emergency exists, ~~he~~ the 33595  
director may order, without a hearing, the denial, suspension, or 33596  
revocation of any license or certificate issued under this chapter 33597  
of the parties involved, provided that an opportunity for a 33598  
hearing is provided to the affected party as soon as reasonably 33599  
possible. 33600

(D) All proceedings under this chapter are subject to Chapter 33601  
119. of the Revised Code, except that: 33602

(1) Upon the request of a licensee or certificate holder, the 33603  
location of an adjudicatory hearing is the county seat of the 33604  
county in which the licensee or certificate holder conducts 33605  
business. 33606

(2) The director shall notify, by certified mail or personal 33607  
delivery, a licensee or certificate holder that ~~he~~ the licensee or 33608  
certificate holder is entitled to a hearing if ~~he~~ the licensee or 33609  
certificate holder requests it, in writing, within ten days of the 33610  
time that ~~he~~ the licensee or certificate holder receives the 33611  
notice. If the licensee or certificate holder requests such a 33612  
hearing, the director shall set the hearing date no later than ten 33613  
days after the director receives the request. 33614

(3) The director shall not apply for or receive a 33615  
postponement or continuation of an adjudication hearing. If a 33616  
licensee or certificate holder requests a postponement or 33617

continuation of an adjudication hearing, the director only shall 33618  
grant the request if the licensee or certificate holder 33619  
demonstrates extreme hardship in complying with the hearing date. 33620  
If the director grants a postponement or continuation on the 33621  
grounds of extreme hardship, the director shall include in the 33622  
record of the case, the nature and cause of the extreme hardship. 33623

(4) In lieu of an adjudicatory hearing required by this 33624  
chapter, a licensee or certificate holder, by no later than the 33625  
date set for a hearing pursuant to division (A)(3) of this 33626  
section, may by written request to the director, request that the 33627  
matter be resolved by the licensee or certificate holder 33628  
submitting documents, papers, and other written evidence to the 33629  
director to support ~~his~~ the licensee's or certificate holder's 33630  
claim. 33631

(5) If the director appoints a referee or an examiner to 33632  
conduct a hearing, all of the following apply: 33633

(a) The examiner or referee shall serve, by certified mail 33634  
and within three business days of the conclusion of the hearing, a 33635  
copy of the written adjudication report and ~~his~~ the referee's or 33636  
examiner's recommendations, on the director and the affected 33637  
licensee or certificate holder or the licensee's or certificate 33638  
holder's attorney or other representative of record. 33639

(b) The licensee or certificate holder, within three business 33640  
days of receipt of the report under division (D)(5)(a) of this 33641  
section, may file with the director written objections to the 33642  
report and recommendations. 33643

(c) The director shall consider any objections received under 33644  
division (D)(5)(b) of this section prior to approving, modifying, 33645  
or disapproving the report and recommendations. Within six 33646  
business days of receiving the report under division (D)(5)(a) of 33647  
this section, the director shall serve ~~his~~ the director's order, 33648

by certified mail, on the affected licensee or certificate holder 33649  
or the licensee's or certificate holder's attorney or other 33650  
representative of record. 33651

(6) If the director conducts an adjudicatory hearing under 33652  
this chapter, ~~he~~ the director shall serve ~~his~~ the director's 33653  
decision, by certified mail and within three business days of the 33654  
conclusion of the hearing, on the affected licensee or certificate 33655  
holder or the licensee's or certificate holder's attorney or other 33656  
representative of record. 33657

(7) If no hearing is held, the director shall issue an order, 33658  
by certified mail and within three business days of the last date 33659  
possible for a hearing, based upon the record available to ~~him~~ the 33660  
director, to the affected licensee or certificate holder or the 33661  
licensee's or certificate holder's attorney or other 33662  
representative of record. 33663

(8) A licensee or certificate holder shall file a notice of 33664  
appeal to an adverse adjudication decision within fifteen days 33665  
after receipt of the director's order. 33666

**Sec. 3710.17.** (A) Where any person is certified or licensed 33667  
by the department of health to engage in asbestos hazard abatement 33668  
or evaluation activity pursuant to this chapter, the liability of 33669  
that person when performing such activity in accordance with 33670  
procedures established pursuant to state or federal law for an 33671  
injury to any individual or property caused or related to this 33672  
activity shall be limited to acts or omissions of the person 33673  
during the course of performing the activity which can be shown, 33674  
based on a preponderance of the evidence, to have been negligent. 33675  
For the purposes of this section, the demonstration that acts or 33676  
omissions of a person performing asbestos hazard abatement or 33677  
evaluation activities were in accordance with generally accepted 33678  
practice and with procedures established by state or federal law 33679

at the time the abatement or evaluation activity was performed 33680  
creates a rebuttable presumption that the acts or omissions were 33681  
not negligent. 33682

(B) Where any person contracts with a certified asbestos 33683  
hazard abatement specialist, asbestos hazard evaluation 33684  
specialist, or other category of asbestos hazard specialist 33685  
established by the ~~public director of health council~~, or a 33686  
licensed asbestos hazard abatement contractor, the liability of 33687  
that person for asbestos-related injuries caused by ~~his~~ the 33688  
person's contractee in the performance of asbestos hazard 33689  
abatement or evaluation activities shall be limited to those 33690  
asbestos-related injuries arising from acts which the person knew 33691  
or could reasonably have been expected to know were not in 33692  
accordance with generally accepted practice or with procedures 33693  
established by state or federal law at the time the abatement 33694  
activity took place. 33695

(C) Notwithstanding any other provisions of the Revised Code 33696  
or rules of a court to the contrary, this section governs all 33697  
claims for asbestos-related injuries arising from asbestos hazard 33698  
abatement or evaluation activities. 33699

**Sec. 3711.04.** Each person seeking to operate a maternity 33700  
unit, newborn care nursery, or maternity home shall apply to the 33701  
director of health for a license under this chapter. The 33702  
application shall be submitted in the form and manner prescribed 33703  
by the ~~public health council~~ director in rules adopted under 33704  
section 3711.12 of the Revised Code. 33705

A single application and license is required if an applicant 33706  
will operate both a maternity unit and newborn care nursery. 33707

**Sec. 3711.06.** The director of health shall inspect each 33708  
maternity unit, newborn care nursery, or maternity home for which 33709

a person has applied for an initial license under section 3711.04 33710  
of the Revised Code prior to issuing the license. Inspections 33711  
shall be conducted in accordance with inspection criteria, 33712  
procedures, and guidelines adopted by the ~~public health council~~ 33713  
director under section 3711.12 of the Revised Code. 33714

**Sec. 3711.08.** A license issued under this chapter is valid 33715  
for three years, unless earlier revoked or suspended under section 33716  
3711.14 of the Revised Code. The license may be renewed in the 33717  
manner prescribed by the ~~public~~ director of health ~~council~~ in 33718  
rules adopted under section 3711.12 of the Revised Code. The 33719  
license renewal fee specified in the rules shall be paid not later 33720  
than sixty days after the director of health mails an invoice for 33721  
the fee to the license holder. A penalty of ten per cent of the 33722  
amount of the renewal fee shall be assessed for each month the fee 33723  
is overdue. 33724

**Sec. 3711.12.** (A) The ~~public~~ director of health ~~council~~ shall 33725  
adopt rules in accordance with Chapter 119. of the Revised Code as 33726  
the ~~council~~ director considers necessary to implement the 33727  
requirements of this chapter for licensure and operation of 33728  
maternity units, newborn care nurseries, and maternity homes. The 33729  
rules shall include provisions for the following: 33730

(1) Licensure application forms and procedures; 33731

(2) Renewal procedures, including procedures that address the 33732  
right of the director of health, at the director's sole 33733  
discretion, to conduct an inspection prior to renewal of a 33734  
license; 33735

(3) Initial license fees and license renewal fees; 33736

(4) Fees for inspections conducted by the director under 33737  
section 3711.10 of the Revised Code; 33738

(5) Safety standards, quality-of-care standards, and 33739

|  |       |
|--|-------|
| quality-of-care data reporting requirements;                                   | 33740 |
| (6) Reporting and auditing requirements;                                       | 33741 |
| (7) Inspection criteria, procedures, and guidelines;                           | 33742 |
| (8) Any other rules necessary to implement this chapter.                       | 33743 |
| (B) When adopting rules under this section, the <del>public health</del>       | 33744 |
| <del>council</del> <u>director</u> shall give consideration to recommendations | 33745 |
| regarding obstetric and newborn care issued by the American                    | 33746 |
| college of obstetricians and gynecologists; American academy of                | 33747 |
| pediatrics; American academy of family physicians; American                    | 33748 |
| society of anesthesiologists; American college of nurse-midwives;              | 33749 |
| United States centers for disease control and prevention;                      | 33750 |
| association of women's health, obstetric and neonatal nurses; and              | 33751 |
| association of perioperative registered nurses, or their successor             | 33752 |
| organizations. The <del>council</del> <u>director</u> shall also consider the  | 33753 |
| recommendations of the maternity and newborn advisory council                  | 33754 |
| established in section 3711.20 of the Revised Code.                            | 33755 |
| <br>   |       |
| <b>Sec. 3711.21.</b> The maternity and newborn advisory council                | 33756 |
| shall do all of the following:   | 33757 |
| (A) Advise and consult with the director of health in the                      | 33758 |
| development of rules to be <del>presented to the public health council</del>   | 33759 |
| <del>for proposed adoption</del> <u>adopted</u> under this chapter;            | 33760 |
| (B) Advise and consult with the director concerning the                        | 33761 |
| implementation and enforcement of this chapter;                                | 33762 |
| (C) Advise and consult with the director in the development                    | 33763 |
| of inspection criteria, procedures, and guidelines to be used in               | 33764 |
| enforcement of this chapter;   | 33765 |
| (D) Advise and consult with the director regarding                             | 33766 |
| recommendations <del>to be presented to the public health council</del>        | 33767 |
| regarding improving maternity and newborn care in this state;                  | 33768 |

(E) Prepare and submit to the director an annual report 33769  
evaluating the department's enforcement of this chapter. 33770

**Sec. 3712.03.** (A) In accordance with Chapter 119. of the 33771  
Revised Code, the ~~public director of health council~~ shall adopt, 33772  
and may amend and rescind, rules: 33773

(1) Providing for the licensing of persons or public agencies 33774  
providing hospice care programs within this state by the 33775  
department of health and for the suspension and revocation of 33776  
licenses; 33777

(2) Establishing a license fee and license renewal fee, 33778  
neither of which shall, except as provided in division (B) of this 33779  
section, exceed six hundred dollars. The fees shall cover the 33780  
three-year period during which an existing license is valid as 33781  
provided in division (B) of section 3712.04 of the Revised Code. 33782

(3) Establishing an inspection fee not to exceed, except as 33783  
provided in division (B) of this section, one thousand seven 33784  
hundred fifty dollars; 33785

(4) Establishing requirements for hospice care program 33786  
facilities and services; 33787

(5) Providing for a waiver of the requirement for the 33788  
provision of physical, occupational, or speech or language therapy 33789  
contained in division (A)(2) of section 3712.01 of the Revised 33790  
Code when the requirement would create a hardship because such 33791  
therapy is not readily available in the geographic area served by 33792  
the provider of a hospice care program; 33793

(6) Providing for the granting of licenses to provide hospice 33794  
care programs to persons and public agencies that are accredited 33795  
or certified to provide such programs by an entity whose standards 33796  
for accreditation or certification equal or exceed those provided 33797  
for licensure under this chapter and rules adopted under it; 33798

|  |       |
|--|-------|
| (7) Establishing interpretive guidelines for each rule.                              | 33799 |
| (B) Subject to the approval of the controlling board, the                            | 33800 |
| <del>public health council</del> <u>director</u> may establish fees in excess of the | 33801 |
| maximum amounts specified in this section, provided that the fees                    | 33802 |
| do not exceed those amounts by greater than fifty per cent.                          | 33803 |
| (C) The department of health shall:  | 33804 |
| (1) Grant, suspend, and revoke licenses for hospice care                             | 33805 |
| programs in accordance with this chapter and rules adopted under                     | 33806 |
| it;  | 33807 |
| (2) Make such inspections as are necessary to determine                              | 33808 |
| whether hospice care program facilities and services meet the                        | 33809 |
| requirements of this chapter and rules adopted under it; and                         | 33810 |
| (3) Implement and enforce this chapter and rules adopted                             | 33811 |
| under it.  | 33812 |
| <b>Sec. 3712.04.</b> (A) Every person or public agency that proposes                 | 33813 |
| to provide a hospice care program shall apply to the department of                   | 33814 |
| health for a license. Application shall be made on forms                             | 33815 |
| prescribed and provided by the department, shall include such                        | 33816 |
| information as the department requires, and shall be accompanied                     | 33817 |
| by the license fee established by rules of the <del>public</del> <u>director of</u>  | 33818 |
| health <del>council</del> adopted under division (A) of section 3712.03 of           | 33819 |
| the Revised Code.  | 33820 |
| The department shall grant a license to the applicant if the                         | 33821 |
| applicant is in compliance with this chapter and rules adopted                       | 33822 |
| under it.  | 33823 |
| (B) A license granted under this section shall be valid for                          | 33824 |
| three years. Application for renewal of a license shall be made at                   | 33825 |
| least ninety days before the expiration of the license in the same                   | 33826 |
| manner as for an initial license. The department shall renew the                     | 33827 |
| license if the applicant meets the requirements of this chapter                      | 33828 |

and rules adopted under it. 33829

(C) Subject to Chapter 119. of the Revised Code, the 33830  
department may suspend or revoke a license if the licensee made 33831  
any material misrepresentation in the application for the license 33832  
or no longer meets the requirements of this chapter or rules 33833  
adopted under it. 33834

(D) A hospital, nursing home, home for the aged, county 33835  
medical care facility, or other health facility or agency that 33836  
provides a hospice care program shall be licensed to provide a 33837  
hospice care program under this section. 33838

(E) A nursing home licensed under Chapter 3721. of the 33839  
Revised Code that does not hold itself out to be a hospice, does 33840  
not hold itself out as providing a hospice care program, does not 33841  
use the term hospice to describe or refer to its activities or 33842  
facilities, and that does not provide all of the services 33843  
enumerated in division (A) of section 3712.01 of the Revised Code 33844  
is not subject to the licensing provisions of this chapter. 33845

**Sec. 3712.09.** (A) As used in this section: 33846

(1) "Applicant" means a person who is under final 33847  
consideration for employment with a hospice care program in a 33848  
full-time, part-time, or temporary position that involves 33849  
providing direct care to an older adult. "Applicant" does not 33850  
include a person who provides direct care as a volunteer without 33851  
receiving or expecting to receive any form of remuneration other 33852  
than reimbursement for actual expenses. 33853

(2) "Criminal records check" ~~and "older adult" have~~ has the 33854  
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 33855

(3) "Older adult" means a person age sixty or older. 33856

(B)(1) Except as provided in division (I) of this section, 33857  
the chief administrator of a hospice care program shall request 33858

that the superintendent of the bureau of criminal identification 33859  
and investigation conduct a criminal records check ~~with respect to~~ 33860  
of each applicant. If an applicant for whom a criminal records 33861  
check request is required under this division does not present 33862  
proof of having been a resident of this state for the five-year 33863  
period immediately prior to the date the criminal records check is 33864  
requested or provide evidence that within that five-year period 33865  
the superintendent has requested information about the applicant 33866  
from the federal bureau of investigation in a criminal records 33867  
check, the chief administrator shall request that the 33868  
superintendent obtain information from the federal bureau of 33869  
investigation as part of the criminal records check of the 33870  
applicant. Even if an applicant for whom a criminal records check 33871  
request is required under this division presents proof of having 33872  
been a resident of this state for the five-year period, the chief 33873  
administrator may request that the superintendent include 33874  
information from the federal bureau of investigation in the 33875  
criminal records check. 33876

(2) A person required by division (B)(1) of this section to 33877  
request a criminal records check shall do both of the following: 33878

(a) Provide to each applicant for whom a criminal records 33879  
check request is required under that division a copy of the form 33880  
prescribed pursuant to division (C)(1) of section 109.572 of the 33881  
Revised Code and a standard fingerprint impression sheet 33882  
prescribed pursuant to division (C)(2) of that section, and obtain 33883  
the completed form and impression sheet from the applicant; 33884

(b) Forward the completed form and impression sheet to the 33885  
superintendent of the bureau of criminal identification and 33886  
investigation. 33887

(3) An applicant provided the form and fingerprint impression 33888  
sheet under division (B)(2)(a) of this section who fails to 33889  
complete the form or provide fingerprint impressions shall not be 33890

employed in any position for which a criminal records check is 33891  
required by this section. 33892

(C)(1) Except as provided in rules adopted by the ~~public~~ 33893  
director of health council in accordance with division (F) of this 33894  
section and subject to division (C)(2) of this section, no hospice 33895  
care program shall employ a person in a position that involves 33896  
providing direct care to an older adult if the person has been 33897  
convicted of or pleaded guilty to any of the following: 33898

(a) A violation of section 2903.01, 2903.02, 2903.03, 33899  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 33900  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 33901  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 33902  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 33903  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 33904  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 33905  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 33906  
2925.22, 2925.23, or 3716.11 of the Revised Code. 33907

(b) A violation of an existing or former law of this state, 33908  
any other state, or the United States that is substantially 33909  
equivalent to any of the offenses listed in division (C)(1)(a) of 33910  
this section. 33911

(2)(a) A hospice care program may employ conditionally an 33912  
applicant for whom a criminal records check request is required 33913  
under division (B) of this section prior to obtaining the results 33914  
of a criminal records check regarding the individual, provided 33915  
that the program shall request a criminal records check regarding 33916  
the individual in accordance with division (B)(1) of this section 33917  
not later than five business days after the individual begins 33918  
conditional employment. In the circumstances described in division 33919  
(I)(2) of this section, a hospice care program may employ 33920  
conditionally an applicant who has been referred to the hospice 33921  
care program by an employment service that supplies full-time, 33922

part-time, or temporary staff for positions involving the direct 33923  
care of older adults and for whom, pursuant to that division, a 33924  
criminal records check is not required under division (B) of this 33925  
section. 33926

(b) A hospice care program that employs an individual 33927  
conditionally under authority of division (C)(2)(a) of this 33928  
section shall terminate the individual's employment if the results 33929  
of the criminal records check requested under division (B) of this 33930  
section or described in division (I)(2) of this section, other 33931  
than the results of any request for information from the federal 33932  
bureau of investigation, are not obtained within the period ending 33933  
thirty days after the date the request is made. Regardless of when 33934  
the results of the criminal records check are obtained, if the 33935  
results indicate that the individual has been convicted of or 33936  
pleaded guilty to any of the offenses listed or described in 33937  
division (C)(1) of this section, the program shall terminate the 33938  
individual's employment unless the program chooses to employ the 33939  
individual pursuant to division (F) of this section. Termination 33940  
of employment under this division shall be considered just cause 33941  
for discharge for purposes of division (D)(2) of section 4141.29 33942  
of the Revised Code if the individual makes any attempt to deceive 33943  
the program about the individual's criminal record. 33944

(D)(1) Each hospice care program shall pay to the bureau of 33945  
criminal identification and investigation the fee prescribed 33946  
pursuant to division (C)(3) of section 109.572 of the Revised Code 33947  
for each criminal records check conducted pursuant to a request 33948  
made under division (B) of this section. 33949

(2) A hospice care program may charge an applicant a fee not 33950  
exceeding the amount the program pays under division (D)(1) of 33951  
this section. A program may collect a fee only if both of the 33952  
following apply: 33953

(a) The program notifies the person at the time of initial 33954

application for employment of the amount of the fee and that, 33955  
unless the fee is paid, the person will not be considered for 33956  
employment; 33957

(b) The medical assistance program established under Chapter 33958  
5111. of the Revised Code does not reimburse the program the fee 33959  
it pays under division (D)(1) of this section. 33960

(E) The report of a criminal records check conducted pursuant 33961  
to a request made under this section is not a public record for 33962  
the purposes of section 149.43 of the Revised Code and shall not 33963  
be made available to any person other than the following: 33964

(1) The individual who is the subject of the criminal records 33965  
check or the individual's representative; 33966

(2) The chief administrator of the program requesting the 33967  
criminal records check or the administrator's representative; 33968

(3) The administrator of any other facility, agency, or 33969  
program that provides direct care to older adults that is owned or 33970  
operated by the same entity that owns or operates the hospice care 33971  
program; 33972

(4) A court, hearing officer, or other necessary individual 33973  
involved in a case dealing with a denial of employment of the 33974  
applicant or dealing with employment or unemployment benefits of 33975  
the applicant; 33976

(5) Any person to whom the report is provided pursuant to, 33977  
and in accordance with, division (I)(1) or (2) of this section. 33978

(F) The ~~public director of health council~~ shall adopt rules 33979  
in accordance with Chapter 119. of the Revised Code to implement 33980  
this section. The rules shall specify circumstances under which a 33981  
hospice care program may employ a person who has been convicted of 33982  
or pleaded guilty to an offense listed or described in division 33983  
(C)(1) of this section but meets personal character standards set 33984

by the ~~council~~ director. 33985

(G) The chief administrator of a hospice care program shall 33986  
inform each individual, at the time of initial application for a 33987  
position that involves providing direct care to an older adult, 33988  
that the individual is required to provide a set of fingerprint 33989  
impressions and that a criminal records check is required to be 33990  
conducted if the individual comes under final consideration for 33991  
employment. 33992

(H) In a tort or other civil action for damages that is 33993  
brought as the result of an injury, death, or loss to person or 33994  
property caused by an individual who a hospice care program 33995  
employs in a position that involves providing direct care to older 33996  
adults, all of the following shall apply: 33997

(1) If the program employed the individual in good faith and 33998  
reasonable reliance on the report of a criminal records check 33999  
requested under this section, the program shall not be found 34000  
negligent solely because of its reliance on the report, even if 34001  
the information in the report is determined later to have been 34002  
incomplete or inaccurate; 34003

(2) If the program employed the individual in good faith on a 34004  
conditional basis pursuant to division (C)(2) of this section, the 34005  
program shall not be found negligent solely because it employed 34006  
the individual prior to receiving the report of a criminal records 34007  
check requested under this section; 34008

(3) If the program in good faith employed the individual 34009  
according to the personal character standards established in rules 34010  
adopted under division (F) of this section, the program shall not 34011  
be found negligent solely because the individual prior to being 34012  
employed had been convicted of or pleaded guilty to an offense 34013  
listed or described in division (C)(1) of this section. 34014

(I)(1) The chief administrator of a hospice care program is 34015

not required to request that the superintendent of the bureau of 34016  
criminal identification and investigation conduct a criminal 34017  
records check of an applicant if the applicant has been referred 34018  
to the program by an employment service that supplies full-time, 34019  
part-time, or temporary staff for positions involving the direct 34020  
care of older adults and both of the following apply: 34021

(a) The chief administrator receives from the employment 34022  
service or the applicant a report of the results of a criminal 34023  
records check regarding the applicant that has been conducted by 34024  
the superintendent within the one-year period immediately 34025  
preceding the applicant's referral; 34026

(b) The report of the criminal records check demonstrates 34027  
that the person has not been convicted of or pleaded guilty to an 34028  
offense listed or described in division (C)(1) of this section, or 34029  
the report demonstrates that the person has been convicted of or 34030  
pleaded guilty to one or more of those offenses, but the hospice 34031  
care program chooses to employ the individual pursuant to division 34032  
(F) of this section. 34033

(2) The chief administrator of a hospice care program is not 34034  
required to request that the superintendent of the bureau of 34035  
criminal identification and investigation conduct a criminal 34036  
records check of an applicant and may employ the applicant 34037  
conditionally as described in this division, if the applicant has 34038  
been referred to the program by an employment service that 34039  
supplies full-time, part-time, or temporary staff for positions 34040  
involving the direct care of older adults and if the chief 34041  
administrator receives from the employment service or the 34042  
applicant a letter from the employment service that is on the 34043  
letterhead of the employment service, dated, and signed by a 34044  
supervisor or another designated official of the employment 34045  
service and that states that the employment service has requested 34046  
the superintendent to conduct a criminal records check regarding 34047

the applicant, that the requested criminal records check will 34048  
include a determination of whether the applicant has been 34049  
convicted of or pleaded guilty to any offense listed or described 34050  
in division (C)(1) of this section, that, as of the date set forth 34051  
on the letter, the employment service had not received the results 34052  
of the criminal records check, and that, when the employment 34053  
service receives the results of the criminal records check, it 34054  
promptly will send a copy of the results to the hospice care 34055  
program. If a hospice care program employs an applicant 34056  
conditionally in accordance with this division, the employment 34057  
service, upon its receipt of the results of the criminal records 34058  
check, promptly shall send a copy of the results to the hospice 34059  
care program, and division (C)(2)(b) of this section applies 34060  
regarding the conditional employment. 34061

**Sec. 3713.01.** As used in sections 3713.01 to 3713.10 of the 34062  
Revised Code: 34063

(A) "Person" has the same meaning as used in division (C) of 34064  
section 1.59 of the Revised Code and also means any limited 34065  
company, limited liability partnership, joint stock company, or 34066  
other association. 34067

(B) "Bedding" means any upholstered furniture, any mattress, 34068  
upholstered spring, comforter, bolster, pad, cushion, pillow, 34069  
mattress protector, quilt, and any other upholstered article, to 34070  
be used for sleeping, resting, or reclining purposes, and any 34071  
glider, hammock, or other substantially similar article that is 34072  
wholly or partly upholstered. 34073

(C) "Secondhand" means any article, or material, or portion 34074  
thereof of which prior use has been made in any manner whatsoever. 34075

(D) "Remade, repaired, or renovated articles not for sale" 34076  
means any article that is remade, repaired, or renovated for and 34077  
is returned to the owner for the owner's own use. 34078

(E) "Sale," "sell," or "sold" shall, in the corresponding 34079  
tense, mean sell, offer to sell, or deliver or consign in sale, or 34080  
possess with intent to sell, or deliver in sale. 34081

(F) "Upholstered furniture" means any article of furniture 34082  
wholly or partly stuffed or filled with material and that is used 34083  
or intended for use for sitting, resting, or reclining purposes. 34084

(G) "Stuffed toy" means any article intended for use as a 34085  
plaything or for an educational or recreational purpose that is 34086  
wholly or partially stuffed with material. 34087

(H) "Tag" or "label" means any material prescribed by the 34088  
superintendent of ~~labor~~ industrial compliance to be attached to an 34089  
article that contains information required under this chapter. 34090

**Sec. 3713.02.** (A) Except as provided in section 3713.05 of 34091  
the Revised Code, no person shall import, manufacture, renovate, 34092  
wholesale, or reupholster stuffed toys or articles of bedding in 34093  
this state without first registering to do so with the 34094  
superintendent of ~~labor~~ industrial compliance in accordance with 34095  
section 3713.05 of the Revised Code. 34096

(B) No person shall manufacture, offer for sale, sell, 34097  
deliver, or possess for the purpose of manufacturing, selling, or 34098  
delivering, an article of bedding or a stuffed toy that is not 34099  
labeled in accordance with section 3713.08 of the Revised Code. 34100

(C) No person shall manufacture, offer for sale, sell, 34101  
deliver, or possess for the purpose of manufacturing, selling, or 34102  
delivering, an article of bedding or a stuffed toy that is falsely 34103  
labeled. 34104

(D) No person shall sell or offer for sale any secondhand 34105  
article of bedding or any secondhand stuffed toy that has not been 34106  
sanitized in accordance with section 3713.08 of the Revised Code. 34107

(E) The possession of any article of bedding or stuffed toy 34108

in the course of business by a person required to obtain 34109  
registration under this chapter, or by that person's agent or 34110  
servant shall be prima-facie evidence of the person's intent to 34111  
sell the article of bedding or stuffed toy. 34112

**Sec. 3713.03.** The superintendent of ~~labor~~ industrial 34113  
compliance in the department of commerce shall administer and 34114  
enforce this chapter. 34115

**Sec. 3713.04.** (A) In accordance with Chapter 119. of the 34116  
Revised Code, the superintendent of ~~labor~~ industrial compliance 34117  
shall: 34118

(1) Adopt rules pertaining to the definition, name, and 34119  
description of materials necessary to carry out this chapter; 34120

(2) Determine the testing standards, fees, and charges to be 34121  
paid for making any test or analysis required pursuant to section 34122  
3713.08 of the Revised Code. 34123

(B) In accordance with Chapter 119. of the Revised Code, the 34124  
superintendent may adopt rules regarding the following: 34125

(1) Establishing an initial application fee or an annual 34126  
registration renewal fee not more than fifty per cent higher than 34127  
the fees set forth in section 4713.05 of the Revised Code; 34128

(2) Establishing standards, on a reciprocal basis, for the 34129  
acceptance of labels and laboratory analyses from other states 34130  
where the labeling requirements and laboratory analysis standards 34131  
are substantially equal to the requirements of this state, 34132  
provided the other state extends similar reciprocity to labels and 34133  
laboratory analysis conducted under this chapter; 34134

(3) Any other rules necessary to administer and carry out 34135  
this chapter. 34136

(C) The superintendent may do any of the following: 34137

(1) Issue administrative orders, conduct hearings, and take 34138  
all actions necessary under the authority of Chapter 119. of the 34139  
Revised Code for the administration of this chapter. The authority 34140  
granted under this division shall include the authority to 34141  
suspend, revoke, or deny registration under this chapter. 34142

(2) Establish and maintain facilities within the department 34143  
of commerce to make tests and analysis of materials used in the 34144  
manufacture of bedding and stuffed toys. The superintendent also 34145  
may designate established laboratories in various sections of the 34146  
state that are qualified to make these tests. If the 34147  
superintendent exercises this authority, the superintendent shall 34148  
adopt rules to determine the fees and charges to be paid for 34149  
making the tests or analyses authorized under this section. 34150

(3) Exercise such other powers and duties as are necessary to 34151  
carry out the purpose and intent of this chapter. 34152

**Sec. 3713.05.** (A) Applications to register to import, 34153  
manufacture, renovate, wholesale, make, or reupholster stuffed 34154  
toys or bedding in this state shall be made in writing on forms 34155  
provided by the superintendent of ~~labor~~ industrial compliance. The 34156  
application shall be accompanied by a registration fee of fifty 34157  
dollars per person unless the applicant engages only in 34158  
renovation, in which case the registration fee shall be 34159  
thirty-five dollars. 34160

(B) Upon receipt of the application and the appropriate fee, 34161  
the superintendent shall register the applicant and assign a 34162  
registration number to the registrant. 34163

(C) Notwithstanding section 3713.02 of the Revised Code and 34164  
division (A) of this section, the following are exempt from 34165  
registration: 34166

(1) An organization described in section 501(c)(3) of the 34167

"Internal Revenue Code of 1986," and exempt from income tax under 34168  
section 501(a) of that code and that is operated exclusively to 34169  
provide recreation or social services; 34170

(2) A person who is not regularly engaged in the business of 34171  
manufacturing, making, wholesaling, or importing stuffed toys but 34172  
who manufactures or makes stuffed toys as a leisure pursuit and 34173  
who sells one hundred or fewer stuffed toys within one calendar 34174  
year; 34175

(3) A person who is not regularly engaged in the business of 34176  
manufacturing, making, wholesaling, or importing quilts, 34177  
comforters, pillows, or cushions, but who manufactures or makes 34178  
these items as a leisure pursuit and who sells five or fewer 34179  
quilts, ten or fewer comforters, or twenty or fewer pillows or 34180  
cushions within one calendar year. 34181

(D) Notwithstanding division (C)(2) or (3) of this section, a 34182  
person exempt under that division must attach a label to each 34183  
stuffed toy that contains all of the following information: 34184

(1) The person's name and address; 34185

(2) A statement that the person is not registered by the 34186  
state of Ohio; 34187

(3) A statement that the contents of the product have not 34188  
been inspected. 34189

**Sec. 3713.06.** (A) Any person required to register under 34190  
division (A) of section 3713.02 of the Revised Code who imports 34191  
bedding or stuffed toys into this state for retail sale or use in 34192  
this state and any person required to register under division (A) 34193  
of section 3713.02 of the Revised Code who manufactures bedding or 34194  
stuffed toys in this state for retail sale or use in this state 34195  
shall submit a report to the superintendent of ~~labor~~ industrial 34196  
compliance, in a form and manner prescribed by the superintendent. 34197

The form shall be submitted once every six months and shall show 34198  
the total number of items of bedding or stuffed toys imported into 34199  
this state or manufactured in this state. Each report shall be 34200  
accompanied by a fee of four cents for each item of bedding or 34201  
stuffed toy imported into this state or manufactured in this 34202  
state. 34203

(B) Every importer, manufacturer, or wholesaler of stuffed 34204  
toys or articles of bedding, and every mobile home and 34205  
recreational vehicle dealer, conversion van dealer, secondhand 34206  
dealer, and auction house shall retain records, designated by the 34207  
superintendent in rule, for the time period established in rule. 34208

(C) Every importer, manufacturer, or wholesaler of stuffed 34209  
toys or articles of bedding, and every mobile home and 34210  
recreational vehicle dealer, conversion van dealer, secondhand 34211  
dealer, and auction house shall make sufficient investigation of 34212  
its records to ensure that the information reported to the 34213  
superintendent under division (A) of this section is accurate. 34214

**Sec. 3713.07.** (A) Registration obtained under this chapter 34215  
expires annually on the last day of the month in the month that 34216  
the registration was obtained. The superintendent of ~~labor~~ 34217  
industrial compliance shall renew the registration in accordance 34218  
with Chapter 4745. of the Revised Code. 34219

(B) Failure on the part of any registrant to renew 34220  
registration prior to its expiration, when notified as required in 34221  
this section, shall not deprive the person of the right to renewal 34222  
within the ninety days that follow expiration, but the fee to be 34223  
paid for renewal after its expiration shall be one hundred dollars 34224  
plus the standard registration fee for the registrant. 34225

(C) If a registrant fails to renew registration within ninety 34226  
days of the date that it expired, the former registrant shall 34227  
comply with the registration requirements under section 3713.05 of 34228

the Revised Code to obtain valid registration. 34229

**Sec. 3713.08.** (A) All persons required to register under 34230  
division (A) of section 3713.02 of the Revised Code manufacturing, 34231  
making, or wholesaling bedding or stuffed toys, or both, that are 34232  
sold or offered for sale shall have the material content of their 34233  
products tested and analyzed at an established laboratory 34234  
designated by the superintendent of ~~labor~~ industrial compliance 34235  
before the bedding or stuffed toys are sold or offered for sale. 34236

(B) Every stuffed toy or item of bedding sold or offered for 34237  
sale shall have a label affixed to it that reports the contents of 34238  
the stuffed toy or bedding material in conformity with 34239  
requirements established by the superintendent, a registration 34240  
number, and any other identifying information as required by the 34241  
superintendent. 34242

(C) The seller of any secondhand articles of bedding or 34243  
stuffed toys shall sanitize all items in accordance with rules 34244  
established by the superintendent prior to the sale of or the 34245  
offering for sale of any secondhand articles. 34246

(D) This section does not apply to any of the following: 34247

(1) Persons who meet the qualifications of division (C)(2) or 34248  
(3) of section 3713.05 of the Revised Code; 34249

(2) The sale of furniture more than fifty years old; 34250

(3) The sale of furniture from the home of the owner directly 34251  
to the purchaser. 34252

**Sec. 3713.09.** (A) The superintendent of ~~labor~~ industrial 34253  
compliance may appoint inspectors and periodically inspect and 34254  
investigate any establishment where bedding or stuffed toys are 34255  
manufactured, made, remade, renovated, repaired, sanitized, sold, 34256  
or offered for sale, or where previously used material is 34257

processed for use in the manufacture of bedding or stuffed toys. 34258

(1) Each inspector shall make a written report to the 34259  
superintendent of each examination and inspection complete with 34260  
the inspector's findings and recommendations. Inspectors may place 34261  
"off sale" any article of bedding or stuffed toy offered for sale, 34262  
or found in the possession of any person with the intent to sell, 34263  
in violation of section 3713.02 of the Revised Code. Inspectors 34264  
shall perform other duties related to inspection and examination 34265  
as prescribed by the superintendent. 34266

(2) When articles are placed "off sale" under division (A)(1) 34267  
of this section, they shall be tagged, and the tag shall not be 34268  
removed except by an authorized representative of the division of 34269  
~~labor~~ industrial compliance after the violator demonstrates to the 34270  
satisfaction of the superintendent proof of compliance with the 34271  
requirements of section 3713.08 of the Revised Code. 34272

(B)(1) When an inspector has cause to believe that any 34273  
bedding or stuffed toy is not tagged or labeled in accordance with 34274  
section 3713.08 of the Revised Code, the inspector may open any 34275  
seam of the bedding or stuffed toy in question to examine the 34276  
material used or contained within it and take a reasonable amount 34277  
of the material for testing and analysis and, if necessary, 34278  
examine any and all purchase records in order to determine the 34279  
contents or the kind of material used in the bedding or stuffed 34280  
toy in question. An inspector may seize and hold evidence of any 34281  
article of bedding, stuffed toy, or material manufactured, made, 34282  
possessed, renovated, remade, or repaired, sold, or offered for 34283  
sale contrary to this chapter. 34284

(2) Immediately after seizing articles believed to be in 34285  
violation of this chapter, the inspector immediately shall report 34286  
the seizure to the superintendent. The superintendent shall hold a 34287  
hearing in accordance with Chapter 119. of the Revised Code or 34288  
make a ruling in the matter. If the superintendent finds that the 34289

article of bedding, stuffed toy, or material is not in violation 34290  
of this chapter, the superintendent shall order the item or items 34291  
returned to the owner. If the superintendent finds a violation of 34292  
this chapter, the superintendent may do either of the following: 34293

(a) Return the articles to the owner for proper treatment, 34294  
tagging or labeling, or other action as ordered by the 34295  
superintendent, subject to the requirement that the articles be 34296  
reinspected at cost to the owner, prior to being sold or offered 34297  
for sale; 34298

(b) Report the violation to the appropriate prosecuting 34299  
attorney or city law director. 34300

(C) The superintendent, at reasonable times and upon 34301  
reasonable notice, may examine or cause to be examined the records 34302  
of any importer, manufacturer, or wholesaler of stuffed toys or 34303  
articles of bedding, mobile home and recreational vehicle dealer, 34304  
conversion van dealer, secondhand dealer, or auction house to 34305  
determine compliance with this chapter. The superintendent may 34306  
enter into contracts, pursuant to procedures prescribed by the 34307  
superintendent, with persons to examine these records to determine 34308  
compliance with this chapter. These persons may collect and remit 34309  
to the superintendent any amounts due under this chapter. 34310

(D) Records audited pursuant to division (C) of this section 34311  
are confidential and shall not be disclosed except as required by 34312  
section 149.43 of the Revised Code, or as the superintendent finds 34313  
necessary for the proper administration of this chapter. 34314

(E) In the case of any investigation or examination, or both, 34315  
that requires investigation or examination outside of this state 34316  
of any importer, manufacturer, or wholesaler of stuffed toys or 34317  
articles of bedding, or of any mobile home or recreational vehicle 34318  
dealer, conversion van dealer, secondhand dealer, or auction 34319  
house, the superintendent may require the investigated or examined 34320

person to pay the actual expense of the investigation or 34321  
examination. The superintendent shall provide an itemized 34322  
statement of actual expenses to the investigated or examined 34323  
person. 34324

(F) Whenever the superintendent has reason to believe, from 34325  
the superintendent's own information, upon complaint, or 34326  
otherwise, that any person has engaged in, is engaging in, or is 34327  
about to engage in any practice prohibited by this chapter, or 34328  
when the superintendent has reason to believe that it is necessary 34329  
for public health and safety, the superintendent may do any of the 34330  
following: 34331

(1) Investigate violations of this chapter, and for that 34332  
purpose, may subpoena witnesses in connection with the 34333  
investigation. The superintendent may make application to the 34334  
appropriate court of common pleas for an order enjoining the 34335  
violation of this chapter, and upon a showing by the 34336  
superintendent that any registrant or person acting in a manner 34337  
that requires registration has violated or is about to violate 34338  
this chapter, an injunction, restraining order, or other order as 34339  
may be appropriate shall be granted by the court. 34340

(2) Compel by subpoena the attendance of witnesses to testify 34341  
in relation to any matter over which the superintendent has 34342  
jurisdiction and that is the subject of inquiry and investigation 34343  
by the superintendent, and require the production of any book, 34344  
paper, or document pertaining to the matter. In case any person 34345  
fails to file any statement or report, obey any subpoena, give 34346  
testimony, or produce any books, records, or papers as required by 34347  
a subpoena, the court of common pleas of any county in the state, 34348  
upon application made to it by the superintendent, shall compel 34349  
obedience by attachment proceedings for contempt. 34350

(3) Suspend or revoke the registration of any importer, 34351  
manufacturer, or wholesaler of stuffed toys or articles of 34352

bedding, mobile home or recreational vehicle dealer, conversion 34353  
van dealer, secondhand dealer, or auction house; 34354

(4) Submit evidence of the violation or violations to any 34355  
city prosecutor, city director of law, or prosecuting attorney 34356  
with authority to prosecute. If the city prosecutor, city director 34357  
of law, or prosecuting attorney with authority to prosecute fails 34358  
to prosecute, the superintendent shall submit the evidence to the 34359  
attorney general who may proceed with the prosecution. 34360

**Sec. 3713.10.** All money collected under this chapter shall be 34361  
deposited into the state treasury to the credit of the ~~labor~~ 34362  
industrial compliance operating fund created under section 121.084 34363  
of the Revised Code. 34364

**Sec. 3714.073.** (A) In addition to the fee levied under 34365  
division (A)(1) of section 3714.07 of the Revised Code, beginning 34366  
July 1, 2005, there is hereby levied on the disposal of 34367  
construction and demolition debris at a construction and 34368  
demolition debris facility that is licensed under this chapter or 34369  
at a solid waste facility that is licensed under Chapter 3734. of 34370  
the Revised Code the following fees: 34371

(1) A fee of twelve and one-half cents per cubic yard or 34372  
twenty-five cents per ton, as applicable, the proceeds of which 34373  
shall be deposited in the state treasury to the credit of the soil 34374  
and water conservation district assistance fund created in section 34375  
1515.14 of the Revised Code; 34376

(2) A fee of thirty-seven and one-half cents per cubic yard 34377  
or seventy-five cents per ton, as applicable, the proceeds of 34378  
which shall be deposited in the state treasury to the credit of 34379  
the recycling and litter prevention fund created in section 34380  
~~1502.02~~ 3736.03 of the Revised Code. 34381

(B) The owner or operator of a construction and demolition 34382

debris facility or a solid waste facility, as a trustee of the 34383  
state, shall collect the fees levied under this section and remit 34384  
the money from the fees in the manner that is established in 34385  
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 34386  
for the fee that is levied under division (A)(1) of that section 34387  
and may enter into an agreement for the quarterly payment of the 34388  
fees in the manner established in division (B) of that section for 34389  
the quarterly payment of the fee that is levied under division 34390  
(A)(1) of that section. 34391

(C) The money that is collected from a construction and 34392  
demolition debris facility or a solid waste facility and remitted 34393  
to a board of health or the director of environmental protection, 34394  
as applicable, pursuant to this section shall be transmitted by 34395  
the board or director to the treasurer of state not later than 34396  
forty-five days after the receipt of the money to be credited to 34397  
the soil and water conservation district assistance fund or the 34398  
recycling and litter prevention fund, as applicable. 34399

(D) This section does not apply to the disposal of 34400  
construction and demolition debris at a solid waste facility that 34401  
is licensed under Chapter 3734. of the Revised Code if the owner 34402  
or operator of the facility chooses to collect fees on the 34403  
disposal of the construction and demolition debris that are 34404  
identical to the fees that are collected under Chapters 343. and 34405  
3734. of the Revised Code on the disposal of solid wastes at that 34406  
facility. 34407

(E) This section does not apply to the disposal of source 34408  
separated materials that are exclusively composed of reinforced or 34409  
nonreinforced concrete, asphalt, clay tile, building or paving 34410  
brick, or building or paving stone at a construction and 34411  
demolition debris facility that is licensed under this chapter 34412  
when either of the following applies: 34413

(1) The materials are placed within the limits of 34414

construction and demolition debris placement at the facility as 34415  
specified in the license issued to the facility under section 34416  
3714.06 of the Revised Code, are not placed within the unloading 34417  
zone of the facility, and are used as a fire prevention measure in 34418  
accordance with rules adopted by the director under section 34419  
3714.02 of the Revised Code. 34420

(2) The materials are not placed within the unloading zone of 34421  
the facility or within the limits of construction and demolition 34422  
debris placement at the facility as specified in the license 34423  
issued to the facility under section 3714.06 of the Revised Code, 34424  
but are used as fill material, either alone or in conjunction with 34425  
clean soil, sand, gravel, or other clean aggregates, in legitimate 34426  
fill operations for construction purposes at the facility or to 34427  
bring the facility up to a consistent grade. 34428

**Sec. 3715.01.** (A) As used in this chapter: 34429

(1) ~~"Public health council" means the public health council 34430  
established by section 3701.33 of the Revised Code. 34431~~

~~(2)~~ "Person" means an individual, partnership, corporation, 34432  
or association. 34433

~~(3)~~ (2) "Food" means: 34434

(a) Articles used for food or drink for humans or animals; 34435

(b) Chewing gum; 34436

(c) Articles used for components of any such articles. 34437

~~(4)~~ (3) "Drug" means: 34438

(a) Articles recognized in the United States pharmacopoeia 34439  
and national formulary, or any supplement to them; 34440

(b) Articles intended for use in the diagnosis, cure, 34441  
mitigation, treatment, or prevention of disease in humans or 34442  
animals; 34443

|  |   |
|--|---|
| (c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals;  | 34444<br>34445  |
| (d) Articles intended for use as a component of any of the foregoing articles, other than devices or their components, parts, or accessories.  | 34446<br>34447<br>34448                                     |
| <del>(5)</del> <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: | 34449<br>34450<br>34451<br>34452<br>34453<br>34454<br>34455 |
| (a) Recognized in the United States pharmacopoeia and national formulary, or any supplement to them;   | 34456<br>34457  |
| (b) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in humans or animals;  | 34458<br>34459<br>34460                                     |
| (c) Intended to affect the structure or any function of the body of humans or animals, and that does not achieve any of its principal intended purposes through chemical action within or on the body of humans or animals and is not dependent upon being metabolized for the achievement of any of its principal intended purposes.  | 34461<br>34462<br>34463<br>34464<br>34465<br>34466          |
| <del>(6)</del> <u>(5)</u> "Cosmetic" means:  | 34467   |
| (a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance;  | 34468<br>34469<br>34470<br>34471                            |
| (b) Articles intended for use as a component of any such article, except that "cosmetic" does not include soap.  | 34472<br>34473  |

~~(7)~~(6) "Label" means a display of written, printed, or graphic matter upon the immediate container, exclusive of package liners, of any article.

Any word, statement, or other information required by this chapter to appear on the label must appear on the outside container or wrapper, if any, of the retail package of the article, or the label must be easily legible through the outside container or wrapper.

~~(8)~~(7) "Labeling" means all labels and other written, printed, or graphic matter:

- (a) Upon an article or any of its containers or wrappers;
- (b) Accompanying such article.

~~(9)~~(8) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

~~(10)~~(9) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof;

(b) Any drug the composition of which is such that the drug, as a result of investigation to determine its safety for use under such conditions, has become so recognized, but that has not, other than in an investigation, been used to a material extent or for a material time under such conditions.

~~(11)~~(10) "Contaminated with filth" applies to any food, drug, device, or cosmetic that has not been protected as far as may be necessary by all reasonable means from dust, dirt, and all foreign

or injurious substances. 34504

~~(12)~~(11) "Honey" means the nectar and saccharine exudation of 34505  
plants that has been gathered, modified, and stored in a honeycomb 34506  
by honeybees. 34507

~~(13)~~(12) "Finished dosage form" means the form of a drug that 34508  
is, or is intended to be, dispensed or administered to humans or 34509  
animals and requires no further manufacturing or processing other 34510  
than packaging, reconstituting, or labeling. 34511

~~(14)~~(13)(a) "Manufacture" means the planting, cultivating, 34512  
harvesting, processing, making, preparing, or otherwise engaging 34513  
in any part of the production of a drug by propagating, 34514  
compounding, converting, or processing, either directly or 34515  
indirectly by extracting from substances of natural origin, or 34516  
independently by means of chemical synthesis, or by a combination 34517  
of extraction and chemical synthesis, and includes the following: 34518

(i) Any packaging or repackaging of the drug or labeling or 34519  
relabeling of its container, the promotion and marketing of the 34520  
drug, and other activities incident to production; 34521

(ii) The preparation and promotion of commercially available 34522  
products from bulk compounds for resale by pharmacies, licensed 34523  
health professionals authorized to prescribe drugs, or other 34524  
persons. 34525

(b) "Manufacture" does not include the preparation, 34526  
compounding, packaging, or labeling of a drug by a pharmacist as 34527  
an incident to either of the following: 34528

(i) Dispensing a drug in the usual course of professional 34529  
practice; 34530

(ii) Providing a licensed health professional authorized to 34531  
prescribe drugs with a drug for the purpose of administering to 34532  
patients or for using the drug in treating patients in the 34533

professional's office. 34534

~~(15)~~(14) "Dangerous drug" has the same meaning as in section 34535  
4729.01 of the Revised Code. 34536

~~(16)~~(15) "Generically equivalent drug" means a drug that 34537  
contains identical amounts of the identical active ingredients, 34538  
but not necessarily containing the same inactive ingredients, that 34539  
meets the identical compendial or other applicable standard of 34540  
identity, strength, quality, and purity, including potency, and 34541  
where applicable, content uniformity, disintegration times, or 34542  
dissolution rates, as the prescribed brand name drug and the 34543  
manufacturer or distributor holds, if applicable, either an 34544  
approved new drug application or an approved abbreviated new drug 34545  
application unless other approval by law or from the federal food 34546  
and drug administration is required. 34547

No drug shall be considered a generically equivalent drug for 34548  
the purposes of this chapter if it has been listed by the federal 34549  
food and drug administration as having proven bioequivalence 34550  
problems. 34551

~~(17)~~(16) "Licensed health professional authorized to 34552  
prescribe drugs" and "prescriber" have the same meanings as in 34553  
section 4729.01 of the Revised Code. 34554

~~(18)~~(17) "Home" means the primary residence occupied by the 34555  
residence's owner, on the condition that the residence contains 34556  
only one stove or oven used for cooking, which may be a double 34557  
oven, designed for common residence usage and not for commercial 34558  
usage, and that the stove or oven be operated in an ordinary 34559  
kitchen within the residence. 34560

~~(19)~~(18) "Potentially hazardous food" means a food that is 34561  
natural or synthetic, to which any of the following apply: 34562

(a) It has a pH level greater than 4.6 when measured at 34563  
seventy-five degrees fahrenheit or twenty-four degrees celsius. 34564

(b) It has a water activity value greater than 0.85. 34565

(c) It requires temperature control because it is in a form 34566  
capable of supporting the rapid and progressive growth of 34567  
infectious or toxigenic microorganisms, the growth and toxin 34568  
production of clostridium botulinum, or in the case of raw shell 34569  
eggs, the growth of salmonella enteritidis. 34570

~~(20)~~(19) "Cottage food production operation" means a person 34571  
who, in the person's home, produces food items that are not 34572  
potentially hazardous foods, including bakery products, jams, 34573  
jellies, candy, fruit butter, and similar products specified in 34574  
rules adopted pursuant to section 3715.025 of the Revised Code. 34575

(B) For the purposes of sections 3715.52 to 3715.72 of the 34576  
Revised Code: 34577

(1) If an article is alleged to be misbranded because the 34578  
labeling is misleading, or if an advertisement is alleged to be 34579  
false because it is misleading, then in determining whether the 34580  
labeling or advertisement is misleading, there shall be taken into 34581  
account, among other things, not only representations made or 34582  
suggested by statement, word, design, device, sound, or in any 34583  
combination thereof, but also the extent to which the labeling or 34584  
advertisement fails to reveal facts material in the light of such 34585  
representations or material with respect to consequence which may 34586  
result from the use of the article to which the labeling or 34587  
advertisement relates under the conditions of use prescribed in 34588  
the labeling or advertisement thereof or under such conditions of 34589  
use as are customary or usual. 34590

(2) The provisions regarding the selling of food, drugs, 34591  
devices, or cosmetics include the manufacture, production, 34592  
processing, packing, exposure, offer, possession, and holding of 34593  
any such article for sale; and the sale, dispensing, and giving of 34594  
any such article, and the supplying or applying of any such 34595

articles in the conduct of any food, drug, or cosmetic 34596  
establishment. The provisions do not prohibit a licensed health 34597  
professional authorized to prescribe drugs from administering or 34598  
personally furnishing a drug or device to a patient. 34599

(3) The representation of a drug, in its labeling or 34600  
advertisement, as an antiseptic is a representation that it is a 34601  
germicide, except in the case of a drug purporting to be, or 34602  
represented as, an antiseptic for inhibitory use as a wet 34603  
dressing, ointment, dusting powder, or other use that involves 34604  
prolonged contact with the body. 34605

(4) Whenever jurisdiction is vested in the director of 34606  
agriculture or the state board of pharmacy, the jurisdiction of 34607  
the board shall be limited to the sale, offering for sale, giving 34608  
away, delivery, or dispensing in any manner of drugs at the 34609  
wholesale and retail levels or to the consumer and shall be 34610  
exclusive in the case of such sale, offering for sale, giving 34611  
away, delivery, or dispensing in any manner of drugs at the 34612  
wholesale and retail levels or to the consumer in any place where 34613  
prescriptions are dispensed or compounded. 34614

(5) To assist in effectuating the provisions of those 34615  
sections, the director of agriculture or state board of pharmacy 34616  
may request assistance or data from any government or private 34617  
agency or individual. 34618

**Sec. 3715.025.** (A) A cottage food production operation shall 34619  
not process acidified foods, low acid canned foods, or potentially 34620  
hazardous foods. 34621

(B) The director of agriculture shall adopt rules in 34622  
accordance with Chapter 119. of the Revised Code specifying the 34623  
food items a cottage food production operation may produce that 34624  
are in addition to the food items identified by name in division 34625  
(A)~~(20)~~(19) of section 3715.01 of the Revised Code. The director 34626

shall not adopt rules that permit a cottage food production 34627  
operation to produce any food that is a potentially hazardous 34628  
food. 34629

**Sec. 3715.60.** Food is misbranded within the meaning of 34630  
sections 3715.01, 3715.02, 3715.022, and 3715.52 to 3715.72 of the 34631  
Revised Code, if: 34632

(A) Its labeling is false or misleading in any particular. 34633

(B) It is offered for sale under the name of another food. 34634

(C) Its container is so made, formed, or filled as to be 34635  
misleading. 34636

(D) It is an imitation of another food, unless its label 34637  
bears in type of uniform size and prominence, the word 34638  
"imitation," and immediately thereafter the name of the food 34639  
imitated. 34640

(E) When it is in package form, it does not bear a label 34641  
containing: 34642

(1) The name and place of business of the manufacturer, 34643  
packer, or distributor; 34644

(2) An accurate statement of the quantity of the contents in 34645  
terms of weight, measure, or numerical count; provided, that 34646  
reasonable variations shall be permitted, and exemptions as to 34647  
small packages shall be established by rules adopted by the 34648  
director of agriculture; 34649

(3) In the case of food subject to section 3715.023 of the 34650  
Revised Code, the information specified in that section. 34651

(F) Any word, statement, or other information required by or 34652  
under authority of sections 3715.01, 3715.02, and 3715.52 to 34653  
3715.72 of the Revised Code, to appear on the label or labeling is 34654  
not prominently placed thereon with such conspicuousness as 34655

compared with other words, statements, designs, or devices, in the 34656  
labeling, and in such terms as to render it likely to be read and 34657  
understood by the ordinary individual under customary conditions 34658  
of purchase and use. 34659

(G) It purports to be, or is represented as, a food for which 34660  
a definition and standard of identity have been prescribed by 34661  
statute, or by any rule adopted under an existing statute, or by 34662  
rule as provided by section 3715.02 of the Revised Code, unless: 34663

(1) It conforms to such definition and standard. 34664

(2) Its label bears the name of the food specified in the 34665  
definition and standard, and, insofar as may be required by such 34666  
statute or rules, the common names of optional ingredients, other 34667  
than spices, flavoring, and coloring, present in such food. 34668

(H) It purports to be or is represented as: 34669

(1) A food for which a standard of quality has been 34670  
prescribed by rule as provided by section 3715.02 of the Revised 34671  
Code and its quality falls below the standard unless its label 34672  
bears, in the manner and form that the rules specify, a statement 34673  
that it falls below the standard; 34674

(2) A food for which a standard or standards of fill of 34675  
container have been prescribed by rule as provided by section 34676  
3715.02 of the Revised Code, and it falls below the standard of 34677  
fill of container applicable thereto, unless its label bears, in 34678  
the manner and form that the rules specify, a statement that it 34679  
falls below the standard. 34680

(I) It is not subject to the provisions of division (G) of 34681  
this section, unless it bears labeling clearly giving: 34682

(1) The common or usual name of the food, if any; 34683

(2) In case it is fabricated from two or more ingredients, 34684  
the common or usual name of each ingredient; except that spices, 34685

flavorings, and colorings, other than those sold as such, may be 34686  
designated as spices, flavorings, and colorings, without naming 34687  
each; provided, that, to the extent that compliance with the 34688  
requirements of division (I)(2) of this section is impractical or 34689  
results in deception or unfair competition, exemptions shall be 34690  
established by rules adopted by the director; and provided that 34691  
these requirements shall not apply to any carbonated beverage of 34692  
which a full and correct statement of the ingredients, to the 34693  
extent prescribed by division (I)(2) of this section, has been 34694  
filed under oath with the director. 34695

(J) It purports to be or is represented to be for special 34696  
dietary uses, unless its label bears such information concerning 34697  
its vitamin, mineral, and other dietary properties as is provided 34698  
by rules ~~proposed~~ adopted by the director ~~and adopted by the~~ 34699  
~~public health council~~, as necessary, in order to fully inform 34700  
purchasers as to its value for such uses. 34701

(K) It bears or contains any artificial flavoring, artificial 34702  
coloring, or chemical preservative, unless it bears labeling 34703  
stating that fact; provided, that to the extent that compliance 34704  
with the requirements of this division is impracticable, 34705  
exemptions shall be established by rules ~~proposed~~ adopted by the 34706  
director ~~and adopted by the public health council~~. 34707

**Sec. 3715.61.** (A) Whenever the director of agriculture finds 34708  
after investigation that the distribution in this state of any 34709  
class of food may, by reason of contamination with microorganisms 34710  
during manufacture, processing, or packing thereof in any 34711  
locality, be injurious to health, and that such injurious nature 34712  
cannot be adequately determined after such articles have entered 34713  
commerce, and in such case only, ~~he~~ the director shall ~~propose~~ 34714  
~~regulations for adoption by the public health council~~ adopt rules 34715  
providing for the issuance, to manufacturers, processor, or 34716

packers of such class of food in such locality, of permits to 34717  
which shall be attached such conditions governing the manufacture, 34718  
processing, or packing of such class food, for such temporary 34719  
period of time, as may be necessary to protect the public health; 34720  
and after the effective date of such regulations, and during such 34721  
temporary period, no person shall introduce or deliver for 34722  
introduction into commerce any such food manufactured, processed, 34723  
or packed by any such manufacturer, processor, or packer unless 34724  
such manufacturer, processor, or packer holds a permit issued by 34725  
the director as provided by such ~~regulations~~ rules. 34726

(B) The director is authorized to suspend immediately upon 34727  
notice any permit issued under authority of this section if it is 34728  
found that any of the conditions of the permit have been violated. 34729  
The holder of a permit so suspended shall be privileged at any 34730  
time to apply for the reinstatement of such permit, and the 34731  
director shall, immediately after prompt hearing and on inspection 34732  
of the establishment, reinstate such permit if it is found that 34733  
adequate measures have been taken to comply with and maintain the 34734  
conditions of the permit, as originally issued, or as amended. 34735

(C) The director shall have access to any factory or 34736  
establishment, the operator of which holds a permit from the 34737  
director for the purpose of ascertaining whether or not the 34738  
conditions of the permit are being complied with, and denial of 34739  
access for such inspection shall be ground for suspension of the 34740  
permit until such access is freely given by the operator. 34741

**Sec. 3715.62.** Any poisonous or deleterious substance added to 34742  
any food, except where such substance is required in the 34743  
production thereof or cannot be avoided by good manufacturing 34744  
practice, shall be unsafe for purposes of the application of 34745  
division (B) of section 3715.59 of the Revised Code, but when such 34746  
substance is so required or cannot be so avoided, the director of 34747

agriculture shall ~~propose regulations for adoption by the public~~ 34748  
~~health council~~ adopt rules limiting the quantity therein or 34749  
thereon to such extent as the director finds necessary for the 34750  
protection of public health, and any quantity exceeding the limits 34751  
so fixed shall also be deemed to be unsafe for purposes of the 34752  
application of division (B) of section 3715.59 of the Revised 34753  
Code. While such a regulation is in effect limiting the quantity 34754  
of any such substance in the case of any food, such food shall 34755  
not, by reason of bearing or containing any added amount of such 34756  
substance, be considered to be adulterated within the meaning of 34757  
division (A) of section 3715.59 of the Revised Code. In 34758  
determining the quantity of such added substance to be tolerated 34759  
in or on different articles of food, the director shall take into 34760  
account the extent to which the use of such substance is required 34761  
or cannot be avoided in the production of each such article and 34762  
the other ways in which the consumer may be affected by the same 34763  
or other poisonous or deleterious substances. 34764

**Sec. 3715.68.** (A) An advertisement of food, drug, device, or 34765  
cosmetic is false if it is false or misleading in any particular. 34766

(B) For the purpose of sections 3715.01 and 3715.52 to 34767  
3715.72 of the Revised Code, the advertisement of a drug or device 34768  
representing it to have any effect in albuminuria, appendicitis, 34769  
arteriosclerosis, blood poison, bone disease, Bright's disease, 34770  
cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, 34771  
erysipelas, gallstones, heart and vascular diseases, high blood 34772  
pressure, mastoiditis, measles, meningitis, mumps, nephritis, 34773  
otitis media, paralysis, pneumonia, poliomyelitis (infantile 34774  
paralysis), prostate gland disorders, pyelitis, scarlet fever, 34775  
sexual impotence, sinus infection, tuberculosis, tumors, typhoid, 34776  
uremia, venereal disease, is also false, except that no 34777  
advertisement not in violation of division (A) of this section is 34778  
false under this division if it is disseminated only to members of 34779

the medical, dental, pharmaceutical, or veterinary profession, or 34780  
appears only in the scientific periodicals of these professions; 34781  
provided, that whenever the director of agriculture determines 34782  
that an advance in medical science has made any type of 34783  
self-medication safe as to any of the diseases named above, the 34784  
director shall ~~propose regulations for adoption by the public~~ 34785  
~~health council~~ adopt rules authorizing the advertisement of drugs 34786  
having curative or therapeutic effect for such disease, subject to 34787  
such conditions and restrictions as the director may deem 34788  
necessary in the interests of public health; provided, that this 34789  
division shall not be construed as indicating that self-medication 34790  
for diseases other than those named in this section is safe or 34791  
efficacious. 34792

**Sec. 3715.87.** (A) As used in this section and in sections 34793  
3715.871, 3715.872, and 3715.873 of the Revised Code: 34794

(1) "Controlled substance" has the same meaning as in section 34795  
3719.01 of the Revised Code. 34796

(2) "Health care facility" has the same meaning as in section 34797  
1337.11 of the Revised Code. 34798

(3) "Hospital" has the same meaning as in section 3727.01 of 34799  
the Revised Code. 34800

(4) "Nonprofit clinic" means a charitable nonprofit 34801  
corporation organized and operated pursuant to Chapter 1702. of 34802  
the Revised Code, or any charitable organization not organized and 34803  
not operated for profit, that provides health care services to 34804  
indigent and uninsured persons as defined in section 2305.234 of 34805  
the Revised Code. "Nonprofit clinic" does not include a hospital 34806  
as defined in section 3727.01 of the Revised Code, a facility 34807  
licensed under Chapter 3721. of the Revised Code, or a facility 34808  
that is operated for profit. 34809

(5) "Prescription drug" means any drug to which the following applies: 34810  
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(a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend, "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription. 34812  
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(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription. 34819  
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(B) The state board of pharmacy shall establish a drug repository program to accept and dispense prescription drugs donated or given for the purpose of being dispensed to individuals who are residents of this state and meet eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code. Except as provided in division (C) of this section, all of the following conditions shall apply to the program: 34821  
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(1) Only drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed; 34829  
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(2) The packaging must be unopened, except that drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed; 34831  
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~~(3) Drugs donated by individuals bearing an expiration date that is less than six months from the date the drug is donated shall not be accepted or dispensed;~~ 34835  
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~~(4)~~ A drug shall not be accepted or dispensed if there is reason to believe that it is adulterated as described in section 3715.63 of the Revised Code. 34838  
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(C) Orally administered cancer drugs that are not controlled 34841  
substances and that do not require refrigeration, freezing, or 34842  
storage at a special temperature may be accepted and dispensed 34843  
even if not in original sealed and tamper-evident unit dose 34844  
packaging, subject to rules adopted by the board pursuant to 34845  
section 3715.873 of the Revised Code. 34846

(D) Subject to the limitations specified in divisions (B) and 34847  
(C) of this section, unused drugs dispensed for purposes of the 34848  
medicaid program may be accepted and dispensed under the drug 34849  
repository program. 34850

**Sec. 3716.01.** As used in sections 3716.01 to 3716.07, 34851  
inclusive, of the Revised Code: 34852

(A) "Department" means the department of health. 34853

(B) "Director" means the director of health. 34854

(C) "Person" includes an individual, partnership, 34855  
corporation, or association. 34856

(D) "Hazardous substance" means any substance or mixture of 34857  
substances which is toxic, corrosive, an irritant, strong 34858  
sensitizer, flammable, or which generates pressure through 34859  
decomposition, heat, or other means, if such substance or mixture 34860  
of substances may cause substantial personal injury or illness 34861  
during any customary or reasonably anticipated handling or use. 34862

(E) "Toxic" applies to any substance which has the inherent 34863  
capacity to produce bodily injury to man through ingestion, 34864  
inhalation, or absorption through any body surface. 34865

(F)(1) "Highly toxic" means any substance which falls within 34866  
any of the following categories: 34867

(a) Produces death within fourteen days in half or more than 34868  
half of a group of ten or more laboratory white rats each weighing 34869  
between two hundred and three hundred grams, at a single dose of 34870

fifty milligrams or less per kilogram of body weight, when orally administered; 34871  
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(b) Produces death within fourteen days in half or more than 34873  
half of a group of ten or more laboratory white rats each weighing 34874  
between two hundred and three hundred grams, when inhaled 34875  
continuously for a period of one hour or less at an atmospheric 34876  
concentration of two hundred parts per million by volume or less 34877  
of gas, vapor, mist, or dust provided such concentration is likely 34878  
to be encountered by ~~man~~ a human being when the substance is used 34879  
in any reasonably foreseeable manner; 34880

(c) Produces death within fourteen days in half or more than 34881  
half of a group of ten or more rabbits tested in a dosage of two 34882  
hundred milligrams or less per kilogram of body weight, when 34883  
administered by continuous contact with the bare skin for 34884  
twenty-four hours or less. 34885

(2) If the director finds that available data on human 34886  
experience with any substance indicates results different from 34887  
those obtained on animals in the above named dosages or 34888  
concentrations, the human data shall take precedence. 34889

(G) "Corrosive" means any substance which in contact with 34890  
living tissue will cause destruction of tissue by chemical action; 34891  
but shall not refer to action on inanimate surfaces. 34892

(H) "Irritant" means any substance not corrosive within the 34893  
meaning of division (G) of this section which on immediate, 34894  
prolonged, or repeated contact with normal living tissue will 34895  
induce a local inflammatory reaction. 34896

(I) "Strong sensitizer" means any substance which will cause 34897  
on normal living tissue, through an allergic or photodynamic 34898  
process, a hypersensitivity which becomes evident on reapplication 34899  
of the same substance and which is designated as such by the 34900  
director. Before designating any substance as a strong sensitizer, 34901

the director shall, after public hearing following due notice, 34902  
find that the frequency of occurrence and severity of the reaction 34903  
indicate a significant potential for causing hypersensitivity. 34904

(J) "Extremely flammable" applies to any substance which has 34905  
a flash point at or below twenty degrees Fahrenheit as determined 34906  
by the tagliabue open cut tester. 34907

(K) "Flammable" applies to any substance which has a flash 34908  
point of above twenty degrees to and including eighty degrees 34909  
Fahrenheit, as determined by the tagliabue open cut tester; except 34910  
that the flammability of the contents of self-pressurized 34911  
containers shall be determined by methods generally applicable to 34912  
such containers and established by regulation of the ~~public health~~ 34913  
~~council~~ director. 34914

(L) "Label" means a display of written, printed, or graphic 34915  
matter upon or attached to the immediate package or container of 34916  
any substance. Any word, statement, or other information required 34917  
by sections 3716.01 to 3716.07, inclusive, of the Revised Code, to 34918  
appear on the label must also appear (1) on the outside container 34919  
or wrapper, if any, unless it is easily legible through the 34920  
outside container or wrapper, and (2) on all accompanying 34921  
literature where there are directions for use, written or 34922  
otherwise. 34923

(M) "Immediate container" does not include package liners. 34924

(N) "Misbranded package" means any container of a hazardous 34925  
substance intended or suitable for household use which fails to 34926  
bear a label: 34927

(1) Which states conspicuously: 34928

(a) The name and place of business of the manufacturer, 34929  
packer, or distributor; 34930

(b) The common or usual name, or the chemical name or the 34931

recognized generic name (not trade name only) of the hazardous 34932  
substance or of each component which contributes substantially to 34933  
its hazard; 34934

(c) The signal word "DANGER" on substances which are 34935  
extremely flammable, corrosive, or which: 34936

(i) Produce death within fourteen days in half or more than 34937  
half of a group of ten or more laboratory white rats each weighing 34938  
between two hundred and three hundred grams, at a single dose of 34939  
one gram or less per kilogram of body weight, when orally 34940  
administered; 34941

(ii) Produce death within fourteen days in half or more than 34942  
half of a group of ten or more laboratory white rats each weighing 34943  
between two hundred and three hundred grams, when inhaled 34944  
continuously for a period of one hour or less at an atmospheric 34945  
concentration of two thousand parts per million by volume of gas, 34946  
vapor, mist, or dust, provided such concentration is likely to be 34947  
encountered by ~~man~~ a human being when the substances are used in 34948  
any reasonably foreseeable manner; 34949

(iii) Produce death within fourteen days in half or more than 34950  
half of a group of ten or more rabbits tested in a dosage of one 34951  
gram or less per kilogram of body weight, when administered by 34952  
continuous contact with the bare skin for twenty-four hours or 34953  
less; 34954

(iv) If the director finds that available data on human 34955  
experience with any substance indicates results different from 34956  
those obtained on animals in the above named dosages or 34957  
concentrations, ~~he~~ the director may require the use of the signal 34958  
word "DANGER" on such substance or permit use of the signal word 34959  
"WARNING" or "CAUTION" on such substance. 34960

(d) The signal word "WARNING" or "CAUTION" on all other 34961  
hazardous substances; 34962

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|---|--|
| (e) An affirmative statement of the principal hazard or hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;   | 34963<br>34964<br>34965<br>34966   |
| (f) Precautionary measures describing the action to be followed or avoided;   | 34967<br>34968   |
| (g) Instructions, when necessary, for the first-aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure;  | 34969<br>34970<br>34971  |
| (h) The word "poison" for any hazardous substance which is defined as "highly toxic" by division (F) of this section;   | 34972<br>34973   |
| (i) Instructions for handling and storage of packages which require special care in handling or storage;  | 34974<br>34975   |
| (j) The statement "Keep out of the reach of children," or its practical equivalent.   | 34976<br>34977   |
| (2) On which any statements required under division (N) (1) of this section are located prominently and are in the English language in legible type in contrast by typography, layout, or color with other printed matter on the label.   | 34978<br>34979<br>34980<br>34981   |
| The <del>public health council</del> <u>director</u> shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this section. The director may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" does not apply to packages of economic poisons subject to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 135, nor to packages of foods, drugs, and cosmetics subject to the "Federal Food, Drug, and Cosmetic Act," nor to sections 3715.01 to 3715.72, inclusive, of the Revised Code. | 34982<br>34983<br>34984<br>34985<br>34986<br>34987<br>34988<br>34989<br>34990<br>34991<br>34992<br>34993 |

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| <b>Sec. 3716.03.</b> The director of health shall:  | 34994 |
| (A) <del>Propose and submit regulations for adoption by the public health council, subject to sections 119.01 to 119.13, inclusive,</del>   | 34995 |
| <u>Adopt rules in accordance with Chapter 119.</u> of the Revised Code,   | 34996 |
| for the efficient enforcement of section 3716.02 of the Revised Code;   | 34997 |
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|   | 34999 |
| (B) Conduct examinations, inspections, and investigations for the purpose of establishing such regulations, through such officers of the department of health or the boards of health, as <del>he</del> <u>the director</u> delegates;  | 35000 |
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| (C) Designate officers and employees to enter at reasonable times any factory, warehouse, or establishment in which hazardous substances are held, or to enter any vehicle being used to transport or hold such hazardous substance:  | 35004 |
|   | 35005 |
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|   | 35007 |
| (1) For the purpose of determining the nature of such substances;   | 35008 |
|   | 35009 |
| (2) To inspect or copy all records showing the movement of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; provided, evidence obtained under this subdivision shall not be used in a criminal prosecution of the person from whom obtained; | 35010 |
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| (D) Inspect and sample, upon tender of reasonable price for such sample, at reasonable times and within reasonable limits and in a reasonable manner, finished hazardous substances in retail packages and labeling thereon in such factory, warehouse, establishment, or vehicle.  | 35016 |
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| <b>Sec. 3717.01.</b> As used in this chapter:   | 35021 |
| (A) "Ohio uniform food safety code" means the food safety and   | 35022 |

related standards adopted under section 3717.05 of the Revised Code. 35023  
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(B) "Food" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption. "Food" includes ice, water or any other beverage, food ingredients, and chewing gum. 35025  
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(C) "Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a mobile retail food establishment, seasonal retail food establishment, and temporary retail food establishment. 35029  
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As used in this division: 35035

(1) "Retail" means the sale of food to a person who is the ultimate consumer. 35036  
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(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received. 35038  
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(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. 35041  
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(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. 35044  
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(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 35049  
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order for one or more individual portions of food in a form that 35053  
is edible without washing, cooking, or additional preparation and 35054  
"prepared" means any action that affects a food other than 35055  
receiving or maintaining it at the temperature at which it was 35056  
received. 35057

Except when expressly provided otherwise, "food service 35058  
operation" includes a catering food service operation, food 35059  
delivery sales operation, mobile food service operation, seasonal 35060  
food service operation, temporary food service operation, and 35061  
vending machine location. 35062

(G) "Catering food service operation" means a food service 35063  
operation where food is prepared for serving at a function or 35064  
event held at an off-premises site, for a charge determined on a 35065  
per-function or per-event basis. 35066

(H) "Food delivery sales operation" means a food service 35067  
operation from which individual portions of food are ordered by a 35068  
customer, prepared at another food service operation or a retail 35069  
food establishment, and delivered to the customer by a person 35070  
other than an employee of the food service operation or retail 35071  
food establishment that prepared the food. 35072

(I) "Mobile food service operation" means a food service 35073  
operation that is operated from a movable vehicle, portable 35074  
structure, or watercraft and that routinely changes location, 35075  
except that if the operation remains at any one location for more 35076  
than forty consecutive days, the operation is no longer a mobile 35077  
food service operation. "Mobile food service operation" includes a 35078  
food service operation that does not remain at any one location 35079  
for more than forty consecutive days and serves, in a manner 35080  
consistent with division (F) of this section, only frozen 35081  
desserts; beverages, nuts, popcorn, candy, or similar confections; 35082  
bakery products identified in section 911.01 of the Revised Code; 35083  
or any combination of those items. 35084

(J) "Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than six months in a licensing period.

(K) "Temporary food service operation" means a food service operation that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.43 of the Revised Code.

(L) "Vending machine location" means an area or room where one or more vending machines are installed and operated, except 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. 35115  
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(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year. 35117  
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(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. 35119  
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(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing. 35125  
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(S) "Cottage food production operation" has the same meaning as in division (A)~~(20)~~(19) of section 3715.01 of the Revised Code. 35128  
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**Sec. 3717.04.** The director of agriculture, ~~the public health council,~~ and the director of health have the exclusive power in this state to adopt rules regarding retail food establishments and food service operations. The rules adopted under this chapter shall be applied uniformly throughout this state. 35130  
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All rules adopted under this chapter shall be adopted in accordance with Chapter 119. of the Revised Code. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to food safety. 35135  
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**Sec. 3717.05.** (A) The director of agriculture and the ~~public director of health council~~ shall adopt rules establishing standards for safe food handling and sanitation in retail food establishments and food service operations. The rules shall be compiled as the Ohio uniform food safety code, which shall be used 35140  
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by the licensors of retail food establishments and food service 35145  
operations in ensuring the safe handling of food in this state. 35146  
All scientific provisions of the Ohio uniform food safety code 35147  
that are relevant to both retail food establishments and food 35148  
service operations shall be adopted by the director of agriculture 35149  
and the ~~public~~ director of health ~~council~~ with each other's 35150  
concurrence. 35151

The Ohio uniform food safety code shall include the 35152  
following: 35153

(1) Criteria for sanitation in retail food establishments and 35154  
food service operations; 35155

(2) Criteria for equipment in retail food establishments and 35156  
food service operations; 35157

(3) Criteria for reviewing the facility layout and equipment 35158  
specifications of retail food establishments and food service 35159  
operations; 35160

(4) A definition of "potentially hazardous" as it pertains to 35161  
food in retail food establishments and to food in food service 35162  
operations; 35163

(5) Criteria to be used in evaluating the primary business of 35164  
a person or government entity for purposes of determining whether 35165  
the person or entity should be licensed as a retail food 35166  
establishment or food service operation. 35167

(B)(1) Except as provided in division (B)(2) of this section, 35168  
if a model food code is established by the United States food and 35169  
drug administration, the Ohio uniform food safety code shall be 35170  
based on the most current version of the food and drug 35171  
administration's model food code. If the food and drug 35172  
administration adopts, modifies, or rescinds a provision in the 35173  
model food code, not later than twelve months after the 35174  
administration's action, the director of agriculture and ~~public~~ 35175

director of health council shall adopt, amend, or rescind 35176  
provisions in the Ohio uniform food safety code to ensure that it 35177  
continues to conform with the model food code. 35178

(2) The Ohio uniform food safety code may contain or omit 35179  
provisions that do not correspond to the food and drug 35180  
administration's model food code if the director of agriculture or 35181  
the ~~public~~ director of health council, with each other's 35182  
concurrence, determines either of the following: 35183

(a) That rules can be adopted under this chapter that provide 35184  
protection at least as effective as that which would be provided 35185  
by basing the rules on the model food code; 35186

(b) That local conditions warrant the adoption of standards 35187  
that are different from the model food code. 35188

**Sec. 3717.07.** (A) For purposes of establishing a licensing 35189  
fee under sections 3717.25 and 3717.45 of the Revised Code, the 35190  
director of agriculture and the ~~public~~ director of health council 35191  
shall adopt rules establishing uniform methodologies for use in 35192  
calculating the costs of licensing retail food establishments in 35193  
the categories specified by the director of agriculture and the 35194  
costs of licensing food service operations in the categories 35195  
specified by the ~~council~~ director of health. In adopting the 35196  
rules, the director of agriculture and the ~~public~~ director of 35197  
health ~~council~~ shall consider any recommendations received from 35198  
advisory boards or other entities representing the interests of 35199  
retail food establishments and food service operations. 35200

(B) The rules shall include provisions that do all of the 35201  
following: 35202

(1) Provide for calculations to be made according to fiscal 35203  
years rather than licensing periods; 35204

(2) Limit the direct costs that may be attributed to the use 35205

of sanitarians by establishing appropriate statewide averages that 35206  
may not be exceeded; 35207

(3) Limit the indirect costs that may be included in the 35208  
calculation of fees to an amount that does not exceed thirty per 35209  
cent of the cost of the licensing program; 35210

(4) Provide for a proportionate reduction in the fees to be 35211  
charged if a licensor included anticipated costs in the 35212  
immediately preceding calculation of licensing fees and the total 35213  
amount of the anticipated costs was not incurred; 35214

(5) Provide for a proportionate reduction in the fees to be 35215  
charged if it is discovered through an audit by the auditor of 35216  
state or through any other means that the licensor has charged or 35217  
is charging a licensing fee that exceeds the amount that should 35218  
have been charged; 35219

(6) Provide for a twenty per cent reduction in the fees to be 35220  
charged when the reduction is imposed as a penalty under division 35221  
(C) of section 3717.071 of the Revised Code; 35222

(7) With regard to any fees charged for licensing vending 35223  
machine locations, the rules shall prohibit a licensor from 35224  
increasing fees by a percentage of increase over the previous 35225  
year's fee that exceeds the percentage of increase in the consumer 35226  
price index for all urban consumers (United States city average, 35227  
all items), prepared by the United States department of labor, 35228  
bureau of labor statistics, for the immediately preceding calendar 35229  
year. 35230

**Sec. 3717.45.** (A) A licensor may charge fees for issuing and 35231  
renewing food service operation licenses. Any licensing fee 35232  
charged shall be used solely for the administration and 35233  
enforcement of the provisions of this chapter and the rules 35234  
adopted under it applicable to food service operations. 35235

Any licensing fee charged under this section shall be based 35236  
on the licensor's costs of regulating food service operations, as 35237  
determined according to the uniform methodologies established 35238  
under section 3717.07 of the Revised Code. If the licensor is a 35239  
board of health, a fee may be disapproved by the district advisory 35240  
council in the case of a general health district or the 35241  
legislative authority of the city in the case of a city health 35242  
district. A disapproved fee shall not be charged by the board of 35243  
health. 35244

Except when a licensing fee is established as an emergency 35245  
measure, the licensor shall hold a public hearing regarding the 35246  
proposed fee. At least twenty days prior to holding a public 35247  
hearing, the licensor shall give written notice of the hearing to 35248  
each person or government entity holding a food service operation 35249  
license that may be affected by the proposed fee. The notice shall 35250  
be mailed to the last known address of the licensee and shall 35251  
specify the date, time, and place of the hearing and the amount of 35252  
the proposed fee. On request, the licensor shall provide the 35253  
completed uniform methodology used in the calculation of the 35254  
licensor's costs and the proposed fee. 35255

(B) In addition to licensing fees, a licensor may charge fees 35256  
for the following: 35257

(1) Review of facility layout and equipment specifications 35258  
pertaining to food service operations, other than mobile and 35259  
temporary food service operations, or similar reviews conducted 35260  
for vending machine locations; 35261

(2) Any necessary collection and bacteriological examination 35262  
of samples from food service operations, or similar services 35263  
specified in rules adopted under this chapter by the ~~public~~ 35264  
director of health council; 35265

(3) Attendance at a course of study offered by the licensor 35266

in food protection as it pertains to food service operations, if 35267  
the course is approved under section 3717.09 of the Revised Code. 35268

(C)(1) The ~~public health council~~ director may determine by 35269  
rule an amount to be collected from applicants for food service 35270  
operation licenses for use ~~by the director of health~~ in 35271  
administering and enforcing the provisions of this chapter and the 35272  
rules adopted under it applicable to food service operations. 35273  
Licensors shall collect the amount prior to issuing an applicant's 35274  
new or renewed license. If a licensing fee is charged under this 35275  
section, the licensor shall collect the amount at the same time 35276  
the fee is collected. Licensors are not required to provide notice 35277  
or hold public hearings regarding amounts to be collected. 35278

(2) A licensor shall certify the amount collected under 35279  
division (C)(1) of this section and transmit the amount to the 35280  
treasurer of state according to the following schedule: 35281

(a) For amounts received by the licensor on or after the 35282  
first day of January but not later than the thirty-first day of 35283  
March, transmit the amounts not later than the fifteenth day of 35284  
May; 35285

(b) For amounts received by the licensor on or after the 35286  
first day of April but not later than the thirtieth day of June, 35287  
transmit the amounts not later than the fifteenth day of August; 35288

(c) For amounts received by the licensor on or after the 35289  
first day of July but not later than the thirtieth day of 35290  
September, transmit the amounts not later than the fifteenth day 35291  
of November; 35292

(d) For amounts received by the licensor on or after the 35293  
first day of October but not later than the thirty-first day of 35294  
December, transmit the amounts not later than the fifteenth day of 35295  
February of the following year. 35296

(3) All amounts received under division (C)(2) of this 35297

section shall be deposited into the general operations fund 35298  
created in section 3701.83 of the Revised Code. The director shall 35299  
use the amounts solely for the administration and enforcement of 35300  
the provisions of this chapter and the rules adopted under it 35301  
applicable to food service operations. 35302

~~(4) The director may submit recommendations to the public 35303  
health council regarding the amounts collected under division 35304  
(C)(1) of this section. When making recommendations, the director 35305  
shall submit a report stating the current and projected expenses 35306  
of administering and enforcing the provisions of this chapter and 35307  
the rules adopted under it applicable to food service operations 35308  
and the total of all amounts that have been deposited in the 35309  
general operations fund pursuant to division (C)(3) of this 35310  
section. The director may include in the report any 35311  
recommendations for modifying the department's administration and 35312  
enforcement of the provisions of this chapter and the rules 35313  
adopted under it applicable to food service operations. 35314~~

**Sec. 3717.51.** Pursuant to section 3717.04 of the Revised 35316  
Code, the public director of health council shall adopt rules 35317  
regarding food service operations, as follows: 35318

(A) Licensing categories for food service operations and 35319  
licensing requirements for each category; 35320

(B) Standards and procedures, including a schedule of 35321  
frequency, for conducting inspections of food service operations; 35322

(C) Standards and procedures for conducting investigations of 35323  
complaints pertaining to food service operations; 35324

(D) Procedures to be used by the director of health in 35325  
approving courses of study for persons seeking certification in 35326  
food protection, standards that must be met to receive and 35327  
maintain the director's approval, and procedures for withdrawing 35328

the director's approval of a course if the standards for approval 35329  
are no longer being met; 35330

(E) Standards for the provision of assistance to choking 35331  
victims; 35332

(F) Any other matter the ~~council~~ director considers relevant 35333  
to the administration and enforcement of the provisions of this 35334  
chapter applicable to food service operations. 35335

**Sec. 3718.02.** (A) The ~~public~~ director of health ~~council~~, in 35336  
accordance with Chapter 119. of the Revised Code, shall adopt, and 35337  
subsequently may amend and rescind, rules of general application 35338  
throughout the state to administer this chapter. Rules adopted 35339  
under division (A) of this section shall do at least all of the 35340  
following: 35341

(1) Require that the appropriate board of health approve or 35342  
disapprove the installation, operation, and alteration of a sewage 35343  
treatment system if it is not connected to a sanitary sewerage 35344  
system; 35345

(2) Require a board of health, or other person as established 35346  
by rule, to conduct a site evaluation for any proposed 35347  
installation of a sewage treatment system; 35348

(3) Prescribe standards for the siting, design, installation, 35349  
operation, monitoring, maintenance, and abandonment of sewage 35350  
treatment systems that may be used in this state and for the 35351  
progressive or incremental alteration or repair of an existing 35352  
sewage treatment system or the progressive or incremental 35353  
installation of a new system to replace an existing sewage 35354  
treatment system. The rules shall be adopted so as to establish a 35355  
preference for the repair of an existing sewage treatment system, 35356  
when technically and economically feasible, rather than its 35357  
replacement with a new system. The standards shall include at a 35358

minimum all of the following: 35359

(a) Soil absorption specifications and vertical separation 35360  
distances. 35361

(i) Soil absorption specifications established in rules shall 35362  
include standards regarding the sizing of sewage treatment systems 35363  
in use in the state. 35364

(ii) In establishing soil absorption specifications and 35365  
vertical separation distances, the rules shall identify those soil 35366  
conditions that present a low or moderate risk of inadequate 35367  
treatment or dispersal of sewage from sewage treatment systems. 35368  
For low and moderate risk conditions, the required vertical 35369  
separation distance shall not exceed eighteen inches except as 35370  
authorized pursuant to rules adopted under divisions 35371  
(A)(3)(a)(iii) and (iv) of this section. 35372

In addition, the rules shall identify those soil conditions 35373  
that present a high risk of inadequate treatment or dispersal of 35374  
sewage. For such high risk conditions, the vertical separation 35375  
distance shall be set at a depth from twenty-four to thirty-six 35376  
inches and shall not be lowered unless a reduction of vertical 35377  
separation is granted in accordance with rules adopted under 35378  
division (A)(3)(a)(iii) of this section. 35379

(iii) The rules shall establish options to be utilized by a 35380  
board of health when approving the reductions of or compliance 35381  
with vertical separation distances that are established in rules 35382  
adopted under division (A)(3)(a)(ii) of this section. The options 35383  
for a board of health in providing such approval shall include, 35384  
but not be limited to: the use where deemed appropriate for a 35385  
particular site of subsurface interceptor drains, perimeter 35386  
drains, or engineered drainage; pretreatment of sewage; or soil 35387  
elevation. 35388

(iv) The rules shall provide that a board of health may 35389

petition the director to increase the vertical separation 35390  
distances required for sewage treatment systems in the applicable 35391  
health district or a portion of the district when conditions 35392  
present a high risk of inadequate treatment or dispersal of 35393  
sewage. The rules also shall provide that the director may approve 35394  
such a request upon a demonstration by the board of health that 35395  
unusual or unique local conditions relating to terrain, bedrock, 35396  
water table, soil fragments, or soil textures require the 35397  
establishment of greater vertical separation distances within the 35398  
jurisdiction of the board of health or a portion thereof. If, 35399  
under the rules, the director of health approves a greater 35400  
vertical separation distance, a board of health still may approve 35401  
a reduction of that vertical separation distance for an individual 35402  
sewage treatment system pursuant to rules adopted under division 35403  
(A)(3)(a)(iii) of this section. Further, if, under the rules, the 35404  
director approves a greater vertical separation distance, a person 35405  
who is denied permission by a board of health to install or 35406  
replace a sewage treatment system as a result of the director's 35407  
approval may request a hearing in accordance with section 3718.11 35408  
of the Revised Code. 35409

(b) Specifications for the quality of treated sewage effluent 35410  
from household sewage treatment systems that is applied to soil on 35411  
the property where a household sewage treatment system is located. 35412  
The specifications established in the rules for the quality of 35413  
effluent from discharging systems shall comply with discharge 35414  
requirements imposed by the national pollutant discharge 35415  
elimination system permit program established under section 35416  
6111.03 of the Revised Code and rules adopted under it. 35417

(c) Requirements for the reasonable maintenance of a system 35418  
according to maintenance requirements approved by the director of 35419  
health as recommended by the sewage treatment system technical 35420  
advisory committee or according to accepted standards and 35421

practices established in rules, as applicable. The requirements 35422  
may include standards for service contracts or other arrangements 35423  
that assure regular maintenance and upkeep of the system. In 35424  
determining the reasonableness of a maintenance requirement, the 35425  
director shall consider a manufacturer's maintenance requirements 35426  
as well as all other maintenance alternatives. 35427

(4) Prescribe procedures for notification to boards of health 35428  
of the approval of a sewage treatment system or components of a 35429  
system by the director of health under section 3718.04 of the 35430  
Revised Code; 35431

(5) Prescribe criteria and procedures under which boards of 35432  
health shall issue installation permits, operation permits, and 35433  
alteration permits for sewage treatment systems. The rules shall 35434  
require as a condition of an installation permit that the 35435  
installer of a system must warrant that the system was installed 35436  
in accordance with all applicable rules and design requirements. 35437  
In addition, the rules shall require a board of health, not later 35438  
than sixty days after the issuance of an installation, operation, 35439  
or alteration permit, to notify the director that the permit was 35440  
issued. The rules shall require the notification to be in a format 35441  
prescribed by the director and to include information related to 35442  
the issuance of the permit. With the assistance of the department 35443  
of health, a board of health, to the extent practicable, shall 35444  
computerize the process of the issuance of permits for sewage 35445  
treatment systems. 35446

(6) Require a board of health to inspect a sewage treatment 35447  
system not later than twelve months after its installation to 35448  
ensure that the system is operating properly. The rules shall 35449  
require a board of health, not later than sixty days after the 35450  
inspection, to certify to the director on a form provided by the 35451  
director that the inspection was performed. 35452

(7) Require each board of health to develop a program for the 35453

administration of maintenance requirements established in rules 35454  
adopted under division (A)(3)(c) of this section. The rules shall 35455  
include requirements and procedures under which a person may 35456  
demonstrate the required maintenance of a system in lieu of having 35457  
an inspection conducted when an inspection otherwise is required. 35458  
The rules shall require a board of health to provide written 35459  
notice to a person that is demonstrating maintenance of a system 35460  
in lieu of an inspection that if proof of the required maintenance 35461  
of the system is not provided as required by rules, the system is 35462  
subject to inspection by the board and the reasonable cost of the 35463  
inspection must be paid by the person. The rules shall authorize a 35464  
board of health to inspect any sewage treatment system if there is 35465  
a good-faith complaint regarding the system, there is probable 35466  
cause for the inspection, or proof of the required maintenance of 35467  
the system has not been provided as required by rules. In 35468  
addition, the rules shall authorize a board of health to inspect a 35469  
sewage treatment system without prior notice in any instance in 35470  
which the board has probable cause to believe that the system is 35471  
endangering or threatening to endanger public health. The rules 35472  
shall require that the reasonable costs for sewage effluent 35473  
testing or evaluation be paid by the owner of a sewage treatment 35474  
system that is being investigated. Further, the rules shall 35475  
establish a methodology for determining the reasonable costs of an 35476  
inspection in accordance with section 3709.09 of the Revised Code. 35477  
The rules shall allow, but shall not require, a board of health to 35478  
continue an inspection program that was established by the board 35479  
prior to the effective date of the rules, provided that the 35480  
program authorizes a person to demonstrate the required 35481  
maintenance of a system in lieu of an inspection. 35482

(8) Require a board of health to register installers, service 35483  
providers, and septage haulers that perform work within the health 35484  
district; prescribe criteria and procedures for the registration; 35485  
and prescribe criteria for a demonstration of competency as a part 35486

of the registration. The rules shall establish uniform statewide 35487  
bonding requirements or other financial security requirements for 35488  
installers, service providers, and septage haulers as a condition 35489  
of registration within any health district. The rules shall 35490  
establish a methodology by which the required amount of a bond or 35491  
other security may be calculated for each installer, service 35492  
provider, and septage hauler. The methodology, at a minimum, shall 35493  
consider the number of systems installed or serviced and the type 35494  
of system installed or serviced by an installer, service provider, 35495  
or septage hauler on an annual basis. The rules shall provide that 35496  
no board of health shall require an additional or different bond 35497  
or security requirement as a condition of registration beyond the 35498  
bonding and security requirements established in the rules adopted 35499  
under division (A)(8) of this section. 35500

The rules shall establish a cost methodology for determining 35501  
the fee for the registration of an installer, service provider, or 35502  
septage hauler in any health district. 35503

(9) Prescribe requirements for the collection, 35504  
transportation, disposal, and land application of domestic septage 35505  
in this state from a sewage treatment system; 35506

(10) Require boards of health to maintain records that are 35507  
determined necessary to ascertain compliance with this chapter and 35508  
the rules adopted under it; 35509

(11) Require the manufacturer of a sewage treatment system 35510  
that is authorized for use in this state in rules adopted under 35511  
this section or that is approved for use in this state under 35512  
section 3718.04 of the Revised Code to provide instructions for 35513  
the operation and maintenance of the system. The rules shall 35514  
provide that a board of health may require a copy of a 35515  
manufacturer's instructions for the operation and maintenance of a 35516  
system to be filed with the board prior to the installation and 35517  
use of the system in the health district in which the board has 35518

jurisdiction. In addition, the rules shall require a board of 35519  
health and a manufacturer to provide a copy of the operation and 35520  
maintenance instructions, if available, when a board of health or 35521  
a manufacturer receives a written request for instructions. 35522

(12) Prescribe criteria for the provision of written evidence 35523  
of compliance with rules pertaining to sewage treatment for 35524  
purposes of sections 711.05 and 711.10 of the Revised Code; 35525

(13) Pursuant to divisions (A)(1) and (3) of this section, 35526  
prescribe standards for the siting, design, installation, 35527  
operation, monitoring, maintenance, and abandonment of small flow 35528  
on-site sewage treatment systems that may be used in this state; 35529

(14) Prescribe minimum criteria and procedures under which 35530  
boards of health may establish household sewage treatment district 35531  
management programs for the purpose of providing a responsive 35532  
approach toward preventing or solving sewage treatment problems 35533  
resulting from household sewage treatment systems within the 35534  
districts established under the program. For purposes of division 35535  
(A)(14) of this section, a board of health may enter into a 35536  
contract with any entity to administer a household sewage 35537  
treatment district management program. 35538

(15) Prescribe standards for the use of subsurface 35539  
interceptor drains, perimeter drains, and engineered drainage to 35540  
remove or divert any subsurface water from an area to be used for 35541  
soil absorption of sewage in the soil of a sewage treatment 35542  
system; 35543

(16) Prescribe standards for the inspection of septage 35544  
hauling truck tanks by boards of health, including, but not 35545  
limited to, tank seal safety specifications; 35546

(17) Establish standards and testing methods to ensure that 35547  
all septic tanks, other disposal component tanks, dosing tanks, 35548  
pump vaults, household sewage treatment disposal system holding 35549

tanks and privy vaults, or other applicable sewage disposal system 35550  
components manufactured after ~~the effective date of this section~~ 35551  
September 17, 2010, and used in this state are watertight and 35552  
structurally sound; 35553

(18) Require a board of health to give notice and an 35554  
opportunity for a hearing, pursuant to section 3718.11 of the 35555  
Revised Code, to an affected property owner regarding any of the 35556  
following: 35557

(a) The denial of an installation, operation, or alteration 35558  
permit for a sewage treatment system; 35559

(b) The imposition of a condition on the installation of a 35560  
sewage treatment system; 35561

(c) The required replacement of a sewage treatment system; 35562

(d) Any other final order or decision of a board of health 35563  
that is made under this chapter concerning which a property owner 35564  
is claiming to be aggrieved or adversely affected. 35565

The rules also shall establish procedures for giving such 35566  
notice and for conducting the hearing required in rules adopted 35567  
under division (A)(18) of this section. 35568

(19) Prescribe standards for the regulation of gray water 35569  
recycling systems; 35570

(20) Prohibit a sewage treatment system from causing a public 35571  
health nuisance; 35572

(21) Define economic impact for purposes of division (B) of 35573  
this section and section 3718.022 of the Revised Code. 35574

The ~~council~~ director may adopt other rules under division (A) 35575  
of this section that ~~it~~ the director determines are necessary to 35576  
implement this chapter and to protect the public health and 35577  
welfare. 35578

At least sixty days prior to adopting a rule under division 35579

(A) of this section, the ~~council~~ director shall provide boards of health and any other interested parties an opportunity to comment on the rule.

(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 adopting the rules, a board of health shall consider and document the economic impact of the rules on property owners within the applicable health district.

(2) A board that intends to adopt rules shall notify the department of health of the proposed rules and submit a copy of the proposed rules and the documentation of the economic impact of the rules at least ninety days prior to the proposed date of adoption. The director shall approve or disapprove any such proposed rule within ninety days after receiving a copy of the proposed rule from the board of health.

(3) In reviewing a proposed rule, the director shall approve the rule if all of the following apply:

(a) The proposed rule is not in conflict with this chapter or rules adopted under it.

(b) The proposed rule is authorized by division (B) of this section.

(c) The proposed rule is no less stringent than rules adopted by the ~~public health council~~ director.

(d) Unless otherwise authorized by this chapter or rules adopted under it, the proposed rule does not require design changes to a sewage treatment system, or component thereof, that

differ from a design authorized in rules adopted under division 35611  
(A) of this section, including rules adopted under division (A)(1) 35612  
or (A)(3)(a)(iii) or (iv) of this section, or approved by the 35613  
director under section 3718.04 of the Revised Code. 35614

(e) The proposed rule does not require operation or 35615  
maintenance procedures for a sewage treatment system that conflict 35616  
with operation or maintenance procedures authorized in rules 35617  
adopted under division (A) of this section, including rules 35618  
adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this 35619  
section, or approved by the director under section 3718.04 of the 35620  
Revised Code. 35621

(4) If a board of health fails to submit a proposed rule to 35622  
the director or fails to demonstrate that the board has considered 35623  
the economic impact of the proposed rule, the rule shall have no 35624  
force or effect and is not enforceable. 35625

**Sec. 3718.021.** (A) A board of health may regulate the siting, 35626  
design, installation, operation, monitoring, maintenance, and 35627  
abandonment of small flow on-site sewage treatment systems in 35628  
accordance with rules adopted by the ~~public~~ director of health 35629  
~~council~~ under division (A)(13) of section 3718.02 of the Revised 35630  
Code. If a board of health chooses to regulate small flow on-site 35631  
sewage treatment systems, the board first shall send written 35632  
notification to the director of health and the director of 35633  
environmental protection. 35634

(B) If a board of health chooses to regulate small flow 35635  
on-site sewage treatment systems under division (A) of this 35636  
section and later determines that it no longer wants to regulate 35637  
those systems, the board shall notify the director of health and 35638  
the director of environmental protection. Upon the receipt of the 35639  
notification by the director of environmental protection, the 35640  
board of health shall cease regulating small flow on-site sewage 35641

treatment systems, and the environmental protection agency shall regulate those systems.

(C) If after a survey conducted under section 3718.07 of the Revised Code the director of health finds that a board of health that has chosen to regulate small flow on-site sewage treatment systems is not complying with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code, the director shall notify the director of environmental protection and the board of health. Upon receipt of the notification, the board shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

**Sec. 3718.022.** Notwithstanding any provision in this chapter to the contrary, in adopting rules under division (A) of section 3718.02 of the Revised Code, the ~~public director of health council~~ shall consider the economic impact of the rules on property owners, the state of available technology, and the nature and economics of the available ~~alternatives~~ alternatives.

**Sec. 3718.05.** The director of health shall do all of the following:

(A) Administer and enforce this chapter and the rules ~~of the public health council~~ adopted under it;

(B) Examine records of boards of health, in accordance with rules adopted by the ~~council~~ director, that are determined necessary to ascertain compliance with this chapter and rules adopted under it;

(C) Review and approve or disapprove rules proposed by boards of health under division (B) of section 3718.02 of the Revised Code. The director shall not disapprove a proposed rule unless the director determines that the proposed rule conflicts with this chapter or rules adopted under division (A) of section 3718.02 of

the Revised Code ~~by the public health council~~ or fails to promote 35672  
public health or environmental protection. If the director 35673  
disapproves a proposed rule, the director shall provide a written 35674  
explanation of the director's disapproval to the board of health 35675  
that proposed the rule. 35676

(D) Survey boards of health as required by section 3718.07 of 35677  
the Revised Code; 35678

(E) Develop with the sewage treatment system technical 35679  
advisory committee standards, guidelines, and protocols for use by 35680  
the director in approving or disapproving a sewage treatment 35681  
system under section 3718.04 of the Revised Code and an 35682  
application form for use by applicants for that approval, 35683  
including identification of the information that must be included 35684  
with the form; 35685

(F) Provide instructions on the operation and maintenance of 35686  
a sewage treatment system. The director shall provide the 35687  
operation and maintenance instructions on the department of 35688  
health's web site. In addition, the director shall provide a copy 35689  
of the operation and maintenance instructions when the director 35690  
receives a written request for the instructions. 35691

(G) Develop educational programs, in conjunction with boards 35692  
of health, to educate owners of sewage treatment systems regarding 35693  
the proper operation and maintenance of those systems. 35694

**Sec. 3718.06.** (A)~~(1)~~ A board of health shall establish fees 35695  
in accordance with section 3709.09 of the Revised Code for the 35696  
purpose of carrying out its duties under this chapter and rules 35697  
adopted under it, including fees for installation permits, 35698  
operation permits, and alteration permits issued by the board. All 35699  
fees so established and collected by the board shall be deposited 35700  
in a special fund of the district to be used exclusively by the 35701  
board in carrying out those duties. 35702

~~(2)(B)~~ In accordance with Chapter 119. of the Revised Code, 35703  
the ~~public director of~~ health ~~council~~ may establish by rule a fee 35704  
to be collected from applicants for installation permits and 35705  
alteration permits issued under rules adopted under this chapter. 35706  
The director of health shall use not more than seventy-five per 35707  
cent of the proceeds from that fee for administering and enforcing 35708  
this chapter and the rules adopted under it by the ~~council~~ 35709  
director. The director shall use not less than twenty-five per 35710  
cent of the proceeds from that fee to establish a program in 35711  
cooperation with boards of health to fund installation and 35712  
evaluation of sewage treatment system new technology pilot 35713  
projects through grants or other agreements. In the selection of 35714  
pilot projects, the director shall consult with the sewage 35715  
treatment system technical advisory committee. A board of health 35716  
shall collect and transmit the fee to the director pursuant to 35717  
section 3709.092 of the Revised Code. 35718

~~(B) The director may submit recommendations to the public 35719  
health council regarding the amount of the fee collected under 35720  
division (A)(2) of this section for installation and alteration 35721  
permits. When making the recommendations, the director shall 35722  
submit a report stating the current and projected expenses of 35723  
administering and enforcing this chapter and the rules adopted 35724  
under it and of the sewage treatment system new technology pilot 35725  
projects program established under this section and the total of 35726  
all money that has been deposited to the credit of the general 35727  
operations fund under division (A)(2) of this section. The 35728  
director may include in the report any recommendations for 35729  
modifying the requirements established under this chapter and the 35730  
rules adopted under it by the council. 35731~~

**Sec. 3718.07.** The director of health shall survey each city 35733  
and general health district at least once every three years to 35734  
determine whether there is substantial compliance with the 35735

requirements of this chapter pertaining to health districts and 35736  
the applicable rules adopted by the ~~public health council~~ director 35737  
under this chapter. Upon determining that there is substantial 35738  
compliance, the director shall place the district on an approved 35739  
list. The director may resurvey an approved district if it is 35740  
determined by the director to be necessary and may remove from the 35741  
list a district that is found not to be substantially complying 35742  
with the requirements of this chapter pertaining to health 35743  
districts and the applicable rules. 35744

If the director determines that a district is not eligible to 35745  
be placed on the approved list or to continue on the list after a 35746  
resurvey, the director shall certify that determination to the 35747  
board of health, and the director shall carry out the duties of 35748  
the unapproved health district under this chapter and the 35749  
applicable rules adopted under it within the district or shall 35750  
contract with an approved health district to conduct those duties 35751  
until the unapproved district is placed on or returned to the 35752  
approved list. The director or the contracting district shall have 35753  
within the unapproved district the authority to exercise powers 35754  
and perform duties granted to or imposed on the board under this 35755  
chapter and the applicable rules adopted under it. 35756

Until the unapproved district is placed on or returned to the 35757  
approved list, the director or the contracting district shall 35758  
collect all fees payable to the board of health under this chapter 35759  
and all such fees previously paid to the unapproved district that 35760  
have not been expended or encumbered. The director shall deposit 35761  
those fees in the state treasury to the credit of a special fund, 35762  
which is hereby created, to be used by the director for the 35763  
purpose of carrying out the duties of the unapproved health 35764  
district under this chapter and the applicable rules adopted under 35765  
it. A contracting district shall deposit those fees to the credit 35766  
of its fund created under section 3718.06 of the Revised Code to 35767

be used by the district for the purpose of carrying out the duties 35768  
of the unapproved district under this chapter and the applicable 35769  
rules adopted under it. The director or contracting district shall 35770  
repay to the unapproved district any balance remaining in the 35771  
applicable fund from all sources when the unapproved district is 35772  
placed on or returned to the approved list by the director. 35773

If a health district is removed from the approved list under 35774  
this section and the board of health of the district is regulating 35775  
small flow on-site sewage treatment systems in the district under 35776  
section 3718.021 of the Revised Code, the director of 35777  
environmental protection shall regulate those systems in that 35778  
district in accordance with division (C) of that section. 35779

**Sec. 3718.09.** (A) A board of health may issue, modify, 35780  
suspend, or revoke enforcement orders to a registration or permit 35781  
holder or other person directing the holder or person to abate a 35782  
violation of this chapter, any rule adopted or order issued under 35783  
it, or a condition of a registration or permit issued under it 35784  
within a specified, reasonable time. If an order issued under this 35785  
division is neglected or disregarded, the applicable board of 35786  
health may proceed in accordance with section 3707.02 of the 35787  
Revised Code. 35788

(B) The health commissioner or the commissioner's designated 35789  
representative, without prior notice or hearing and in accordance 35790  
with ~~the rules of~~ adopted by the public director of health 35791  
~~council~~, may issue an emergency order requiring any action 35792  
necessary to meet a public health emergency or to prevent or abate 35793  
an imminent and substantial threat to surface water or ground 35794  
water regarding domestic septage management or regarding a sewage 35795  
treatment system that is being operated in a manner that does not 35796  
comply with this chapter or rules adopted under it. A person to 35797  
whom such an emergency order is issued immediately shall comply 35798

with the order. A person so ordered may apply to the issuer of the 35799  
order for a hearing, which shall be held as soon as possible, but 35800  
not later than twenty days after the issuer's receipt of the 35801  
application for a hearing. 35802

**Sec. 3721.01.** (A) As used in sections 3721.01 to 3721.09 and 35803  
3721.99 of the Revised Code: 35804

(1)(a) "Home" means an institution, residence, or facility 35805  
that provides, for a period of more than twenty-four hours, 35806  
whether for a consideration or not, accommodations to three or 35807  
more unrelated individuals who are dependent upon the services of 35808  
others, including a nursing home, residential care facility, home 35809  
for the aging, and a veterans' home operated under Chapter 5907. 35810  
of the Revised Code. 35811

(b) "Home" also means both of the following: 35812

(i) Any facility that a person, as defined in section 3702.51 35813  
of the Revised Code, proposes for certification as a skilled 35814  
nursing facility or nursing facility under Title XVIII or XIX of 35815  
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 35816  
as amended, and for which a certificate of need, other than a 35817  
certificate to recategorize hospital beds as described in section 35818  
~~3702.522~~ 3702.521 of the Revised Code or division (R)(7)(d) of the 35819  
version of section 3702.51 of the Revised Code in effect 35820  
immediately prior to April 20, 1995, has been granted to the 35821  
person under sections 3702.51 to 3702.62 of the Revised Code after 35822  
August 5, 1989; 35823

(ii) A county home or district home that is or has been 35824  
licensed as a residential care facility. 35825

(c) "Home" does not mean any of the following: 35826

(i) Except as provided in division (A)(1)(b) of this section, 35827  
a public hospital or hospital as defined in section 3701.01 or 35828

|  |  |
|--|--|
| 5122.01 of the Revised Code;   | 35829  |
| (ii) A residential facility <del>for mentally ill persons</del> as defined <del>under</del> <u>in</u> section 5119.22 of the Revised Code;   | 35830<br>35831   |
| (iii) A residential facility as defined in section 5123.19 of the Revised Code;  | 35832<br>35833   |
| (iv) <del>An adult care facility as defined in section 5119.70 of the Revised Code;</del>  | 35834<br>35835   |
| <del>(v)</del> An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;   | 35836<br>35837   |
| <del>(vi)</del> <u>(v)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;   | 35838<br>35839   |
| <del>(vii)</del> <u>(vi)</u> A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code <del>unless section 5123.192 of the Revised Code makes the facility subject to the requirements of this chapter;</del>   | 35840<br>35841<br>35842<br>35843   |
| <del>(viii)</del> <u>(vii)</u> A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;   | 35844<br>35845<br>35846  |
| <del>(ix)</del> <u>(viii)</u> A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order; | 35847<br>35848<br>35849<br>35850<br>35851<br>35852<br>35853<br>35854<br>35855<br>35856 |
| <del>(x)</del> <u>(ix)</u> A county home or district home that has never been licensed as a residential care facility.   | 35857<br>35858   |

(2) "Unrelated individual" means one who is not related to 35859  
the owner or operator of a home or to the spouse of the owner or 35860  
operator as a parent, grandparent, child, grandchild, brother, 35861  
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 35862  
uncle. 35863

(3) "Mental impairment" does not mean mental illness as 35864  
defined in section 5122.01 of the Revised Code or mental 35865  
retardation as defined in section 5123.01 of the Revised Code. 35866

(4) "Skilled nursing care" means procedures that require 35867  
technical skills and knowledge beyond those the untrained person 35868  
possesses and that are commonly employed in providing for the 35869  
physical, mental, and emotional needs of the ill or otherwise 35870  
incapacitated. "Skilled nursing care" includes, but is not limited 35871  
to, the following: 35872

(a) Irrigations, catheterizations, application of dressings, 35873  
and supervision of special diets; 35874

(b) Objective observation of changes in the patient's 35875  
condition as a means of analyzing and determining the nursing care 35876  
required and the need for further medical diagnosis and treatment; 35877

(c) Special procedures contributing to rehabilitation; 35878

(d) Administration of medication by any method ordered by a 35879  
physician, such as hypodermically, rectally, or orally, including 35880  
observation of the patient after receipt of the medication; 35881

(e) Carrying out other treatments prescribed by the physician 35882  
that involve a similar level of complexity and skill in 35883  
administration. 35884

(5)(a) "Personal care services" means services including, but 35885  
not limited to, the following: 35886

(i) Assisting residents with activities of daily living; 35887

(ii) Assisting residents with self-administration of 35888

medication, in accordance with rules adopted under section 3721.04 35889  
of the Revised Code; 35890

(iii) Preparing special diets, other than complex therapeutic 35891  
diets, for residents pursuant to the instructions of a physician 35892  
or a licensed dietitian, in accordance with rules adopted under 35893  
section 3721.04 of the Revised Code. 35894

(b) "Personal care services" does not include "skilled 35895  
nursing care" as defined in division (A)(4) of this section. A 35896  
facility need not provide more than one of the services listed in 35897  
division (A)(5)(a) of this section to be considered to be 35898  
providing personal care services. 35899

(6) "Nursing home" means a home used for the reception and 35900  
care of individuals who by reason of illness or physical or mental 35901  
impairment require skilled nursing care and of individuals who 35902  
require personal care services but not skilled nursing care. A 35903  
nursing home is licensed to provide personal care services and 35904  
skilled nursing care. 35905

(7) "Residential care facility" means a home that provides 35906  
either of the following: 35907

(a) Accommodations for seventeen or more unrelated 35908  
individuals and supervision and personal care services for three 35909  
or more of those individuals who are dependent on the services of 35910  
others by reason of age or physical or mental impairment; 35911

(b) Accommodations for three or more unrelated individuals, 35912  
supervision and personal care services for at least three of those 35913  
individuals who are dependent on the services of others by reason 35914  
of age or physical or mental impairment, and, to at least one of 35915  
those individuals, any of the skilled nursing care authorized by 35916  
section 3721.011 of the Revised Code. 35917

(8) "Home for the aging" means a home that provides services 35918  
as a residential care facility and a nursing home, except that the 35919

home provides its services only to individuals who are dependent 35920  
on the services of others by reason of both age and physical or 35921  
mental impairment. 35922

The part or unit of a home for the aging that provides 35923  
services only as a residential care facility is licensed as a 35924  
residential care facility. The part or unit that may provide 35925  
skilled nursing care beyond the extent authorized by section 35926  
3721.011 of the Revised Code is licensed as a nursing home. 35927

(9) "County home" and "district home" mean a county home or 35928  
district home operated under Chapter 5155. of the Revised Code. 35929

(B) The ~~public director of health council~~ may further 35930  
classify homes. For the purposes of this chapter, any residence, 35931  
institution, hotel, congregate housing project, or similar 35932  
facility that meets the definition of a home under this section is 35933  
such a home regardless of how the facility holds itself out to the 35934  
public. 35935

(C) For purposes of this chapter, personal care services or 35936  
skilled nursing care shall be considered to be provided by a 35937  
facility if they are provided by a person employed by or 35938  
associated with the facility or by another person pursuant to an 35939  
agreement to which neither the resident who receives the services 35940  
nor the resident's sponsor is a party. 35941

(D) Nothing in division (A)(4) of this section shall be 35942  
construed to permit skilled nursing care to be imposed on an 35943  
individual who does not require skilled nursing care. 35944

Nothing in division (A)(5) of this section shall be construed 35945  
to permit personal care services to be imposed on an individual 35946  
who is capable of performing the activity in question without 35947  
assistance. 35948

(E) Division (A)(1)(c)~~(ix)~~(viii) of this section does not 35949  
prohibit a facility, infirmary, or other entity described in that 35950

division from seeking licensure under sections 3721.01 to 3721.09 35951  
of the Revised Code or certification under Title XVIII or XIX of 35952  
the "Social Security Act." However, such a facility, infirmary, or 35953  
entity that applies for licensure or certification must meet the 35954  
requirements of those sections or titles and the rules adopted 35955  
under them and obtain a certificate of need from the director of 35956  
health under section 3702.52 of the Revised Code. 35957

(F) Nothing in this chapter, or rules adopted pursuant to it, 35958  
shall be construed as authorizing the supervision, regulation, or 35959  
control of the spiritual care or treatment of residents or 35960  
patients in any home who rely upon treatment by prayer or 35961  
spiritual means in accordance with the creed or tenets of any 35962  
recognized church or religious denomination. 35963

**Sec. 3721.011.** (A) In addition to providing accommodations, 35964  
supervision, and personal care services to its residents, a 35965  
residential care facility may do the following: 35966

(1) Provide the following skilled nursing care to its 35967  
residents: 35968

(a) Supervision of special diets; 35969

(b) Application of dressings, in accordance with rules 35970  
adopted under section 3721.04 of the Revised Code; 35971

(c) Subject to division (B)(1) of this section, 35972  
administration of medication. 35973

(2) Subject to division (C) of this section, provide other 35974  
skilled nursing care on a part-time, intermittent basis for not 35975  
more than a total of one hundred twenty days in a twelve-month 35976  
period; 35977

(3) Provide skilled nursing care for more than one hundred 35978  
twenty days in a twelve-month period to a resident when the 35979  
requirements of division (D) of this section are met. 35980

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.

(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:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(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;

(c) A medication aide certified under Chapter 4723. of the Revised Code;

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and

surgery. 36012

(2) In assisting a resident with self-administration of 36013  
medication, any member of the staff of a residential care facility 36014  
may do the following: 36015

(a) Remind a resident when to take medication and watch to 36016  
ensure that the resident follows the directions on the container; 36017

(b) Assist a resident by taking the medication from the 36018  
locked area where it is stored, in accordance with rules adopted 36019  
pursuant to section 3721.04 of the Revised Code, and handing it to 36020  
the resident. If the resident is physically unable to open the 36021  
container, a staff member may open the container for the resident. 36022

(c) Assist a physically impaired but mentally alert resident, 36023  
such as a resident with arthritis, cerebral palsy, or Parkinson's 36024  
disease, in removing oral or topical medication from containers 36025  
and in consuming or applying the medication, upon request by or 36026  
with the consent of the resident. If a resident is physically 36027  
unable to place a dose of medicine to the resident's mouth without 36028  
spilling it, a staff member may place the dose in a container and 36029  
place the container to the mouth of the resident. 36030

(C) Except as provided in division (D) of this section, a 36031  
residential care facility may admit or retain individuals who 36032  
require skilled nursing care beyond the supervision of special 36033  
diets, application of dressings, or administration of medication, 36034  
only if the care will be provided on a part-time, intermittent 36035  
basis for not more than a total of one hundred twenty days in any 36036  
twelve-month period. In accordance with Chapter 119. of the 36037  
Revised Code, the ~~public director of health council~~ shall adopt 36038  
rules specifying what constitutes the need for skilled nursing 36039  
care on a part-time, intermittent basis. The ~~council~~ director 36040  
shall adopt rules that are consistent with rules pertaining to 36041  
home health care adopted by the director of job and family 36042

services for the medicaid program established under Chapter 5111. 36043  
of the Revised Code. Skilled nursing care provided pursuant to 36044  
this division may be provided by a home health agency certified 36045  
under Title XVIII of the "Social Security Act," a hospice care 36046  
program licensed under Chapter 3712. of the Revised Code, or a 36047  
member of the staff of a residential care facility who is 36048  
qualified to perform skilled nursing care. 36049

A residential care facility that provides skilled nursing 36050  
care pursuant to this division shall do both of the following: 36051

(1) Evaluate each resident receiving the skilled nursing care 36052  
at least once every seven days to determine whether the resident 36053  
should be transferred to a nursing home; 36054

(2) Meet the skilled nursing care needs of each resident 36055  
receiving the care. 36056

(D)(1) A residential care facility may admit or retain an 36057  
individual who requires skilled nursing care for more than one 36058  
hundred twenty days in any twelve-month period only if the 36059  
facility has entered into a written agreement with each of the 36060  
following: 36061

(a) The individual or individual's sponsor; 36062

(b) The individual's personal physician; 36063

(c) Unless the individual's personal physician oversees the 36064  
skilled nursing care, the provider of the skilled nursing care; 36065

(d) If the individual is a hospice patient as defined in 36066  
section 3712.01 of the Revised Code, a hospice care program 36067  
licensed under Chapter 3712. of the Revised Code. 36068

(2) The agreement required by division (D)(1) of this section 36069  
shall include all of the following provisions: 36070

(a) That the individual will be provided skilled nursing care 36071  
in the facility only if a determination has been made that the 36072

individual's needs can be met at the facility; 36073

(b) That the individual will be retained in the facility only 36074  
if periodic redeterminations are made that the individual's needs 36075  
are being met at the facility; 36076

(c) That the redeterminations will be made according to a 36077  
schedule specified in the agreement; 36078

(d) If the individual is a hospice patient, that the 36079  
individual has been given an opportunity to choose the hospice 36080  
care program that best meets the individual's needs; 36081

(e) Unless the individual is a hospice patient, that the 36082  
individual's personal physician has determined that the skilled 36083  
nursing care the individual needs is routine. 36084

(E) Notwithstanding any other provision of this chapter, a 36085  
residential care facility in which residents receive skilled 36086  
nursing care pursuant to this section is not a nursing home. 36087

**Sec. 3721.02.** (A) As used in this section, "residential 36088  
facility" means a residential facility licensed under section 36089  
5119.22 of the Revised Code that provides accommodations, 36090  
supervision, and personal care services for three to sixteen 36091  
unrelated adults. 36092

(B) The director of health shall license homes and establish 36093  
procedures to be followed in inspecting and licensing homes. The 36094  
director may inspect a home at any time. Each home shall be 36095  
inspected by the director at least once prior to the issuance of a 36096  
license and at least once every fifteen months thereafter. The 36097  
state fire marshal or a township, municipal, or other legally 36098  
constituted fire department approved by the marshal shall also 36099  
inspect a home prior to issuance of a license, at least once every 36100  
fifteen months thereafter, and at any other time requested by the 36101  
director. A home does not have to be inspected prior to issuance 36102

of a license by the director, state fire marshal, or a fire 36103  
department if ownership of the home is assigned or transferred to 36104  
a different person and the home was licensed under this chapter 36105  
immediately prior to the assignment or transfer. The director may 36106  
enter at any time, for the purposes of investigation, any 36107  
institution, residence, facility, or other structure that has been 36108  
reported to the director or that the director has reasonable cause 36109  
to believe is operating as a nursing home, residential care 36110  
facility, or home for the aging without a valid license required 36111  
by section 3721.05 of the Revised Code or, in the case of a county 36112  
home or district home, is operating despite the revocation of its 36113  
residential care facility license. The director may delegate the 36114  
director's authority and duties under this chapter to any 36115  
division, bureau, agency, or official of the department of health. 36116

~~(B)~~(C) A single facility may be licensed both as a nursing 36117  
home pursuant to this chapter and as ~~an adult care~~ a residential 36118  
facility pursuant to ~~Chapter 5119.~~ section 5119.22 of the Revised 36119  
Code if the director determines that the part or unit to be 36120  
licensed as a nursing home can be maintained separate and discrete 36121  
from the part or unit to be licensed as ~~an adult care~~ a 36122  
residential facility. 36123

~~(C)~~(D) In determining the number of residents in a home for 36124  
the purpose of licensing, the director shall consider all the 36125  
individuals for whom the home provides accommodations as one group 36126  
unless one of the following is the case: 36127

(1) The home is a home for the aging, in which case all the 36128  
individuals in the part or unit licensed as a nursing home shall 36129  
be considered as one group, and all the individuals in the part or 36130  
unit licensed as a rest home shall be considered as another group. 36131

(2) The home is both a nursing home and ~~an adult care~~ a 36132  
residential facility. In that case, all the individuals in the 36133  
part or unit licensed as a nursing home shall be considered as one 36134

group, and all the individuals in the part or unit licensed as an 36135  
adult care facility shall be considered as another group. 36136

(3) The home maintains, in addition to a nursing home or 36137  
residential care facility, a separate and discrete part or unit 36138  
that provides accommodations to individuals who do not require or 36139  
receive skilled nursing care and do not receive personal care 36140  
services from the home, in which case the individuals in the 36141  
separate and discrete part or unit shall not be considered in 36142  
determining the number of residents in the home if the separate 36143  
and discrete part or unit is in compliance with the Ohio basic 36144  
building code established by the board of building standards under 36145  
Chapters 3781. and 3791. of the Revised Code and the home permits 36146  
the director, on request, to inspect the separate and discrete 36147  
part or unit and speak with the individuals residing there, if 36148  
they consent, to determine whether the separate and discrete part 36149  
or unit meets the requirements of this division. 36150

~~(D)~~(E)(1) The director of health shall charge the following 36151  
application fee and annual renewal licensing and inspection fee 36152  
for each fifty persons or part thereof of a home's licensed 36153  
capacity: 36154

(a) For state fiscal year 2010, two hundred twenty dollars; 36155

(b) For state fiscal year 2011, two hundred seventy dollars; 36156

(c) For each state fiscal year thereafter, three hundred 36157  
twenty dollars. 36158

(2) All fees collected by the director for the issuance or 36159  
renewal of licenses shall be deposited into the state treasury to 36160  
the credit of the general operations fund created in section 36161  
3701.83 of the Revised Code for use only in administering and 36162  
enforcing this chapter and rules adopted under it. 36163

~~(E)~~(F)(1) Except as otherwise provided in this section, the 36164  
results of an inspection or investigation of a home that is 36165

conducted under this section, including any statement of 36166  
deficiencies and all findings and deficiencies cited in the 36167  
statement on the basis of the inspection or investigation, shall 36168  
be used solely to determine the home's compliance with this 36169  
chapter or another chapter of the Revised Code in any action or 36170  
proceeding other than an action commenced under division (I) of 36171  
section 3721.17 of the Revised Code. Those results of an 36172  
inspection or investigation, that statement of deficiencies, and 36173  
the findings and deficiencies cited in that statement shall not be 36174  
used in any court or in any action or proceeding that is pending 36175  
in any court and are not admissible in evidence in any action or 36176  
proceeding unless that action or proceeding is an appeal of an 36177  
action by the department of health under this chapter or is an 36178  
action by any department or agency of the state to enforce this 36179  
chapter or another chapter of the Revised Code. 36180

(2) Nothing in division (E)(1) of this section prohibits the 36181  
results of an inspection or investigation conducted under this 36182  
section from being used in a criminal investigation or 36183  
prosecution. 36184

**Sec. 3721.03.** (A) As used in this section, "person" has the 36185  
same meaning as in section 1.59 of the Revised Code. 36186

(B) The director of health shall enforce the provisions of 36187  
sections 3721.01 to 3721.13 and 3721.99 of the Revised Code and 36188  
may issue orders to secure compliance with the provisions of these 36189  
sections and the rules adopted under them. The director may hold 36190  
hearings, issue subpoenas, compel testimony, and make 36191  
adjudications. 36192

The director may issue an order revoking a license in the 36193  
event the director finds, upon hearing or opportunity afforded 36194  
pursuant to Chapter 119. of the Revised Code, that any of the 36195  
following apply to a person, county home, or district home 36196

licensed under section 3721.07 of the Revised Code: 36197

(1) Has violated any of the provisions of Chapter 3721. of 36198  
the Revised Code or rules adopted by the ~~public health council~~ 36199  
director under it; 36200

(2) Has violated any order issued by the director; 36201

(3) Is not, or any of its principals are not suitable, 36202  
morally or financially to operate such an institution; 36203

(4) Is not furnishing humane, kind, and adequate treatment 36204  
and care; 36205

(5) Has had a long-standing pattern of violations of this 36206  
chapter or the rules adopted under it that has caused physical, 36207  
emotional, mental, or psychosocial harm to one or more residents. 36208

Upon the issuance of any order of revocation, the person 36209  
whose license is revoked, or the county home or district home that 36210  
has its license revoked, may appeal in accordance with Chapter 36211  
119. of the Revised Code. 36212

(C) Once the director notifies a person, county home, or 36213  
district home licensed to operate a home that the license may be 36214  
revoked or issues any order under this section, the person, county 36215  
home, or district home shall not assign or transfer to another 36216  
person or entity the right to operate the home. This prohibition 36217  
shall remain in effect until proceedings under Chapter 119. of the 36218  
Revised Code concerning the order or license revocation have been 36219  
concluded or the director notifies the person, county home, or 36220  
district home that the prohibition has been lifted. 36221

If a license is revoked under this section, the former 36222  
license holder shall not assign or transfer or consent to 36223  
assignment or transfer of the right to operate the home. Any 36224  
attempted assignment or transfer to another person or entity is 36225  
void. 36226

On revocation of a license, the former licensee shall take 36227  
all necessary steps to cease operation of the home. 36228

The director of health shall not accept a certificate of need 36229  
application under section 3702.52 of the Revised Code regarding a 36230  
home if the license to operate the home has been revoked under 36231  
this section. 36232

**Sec. 3721.032.** The state fire marshal shall enforce all 36233  
statutes and rules pertaining to fire safety in homes and shall 36234  
adopt rules pertaining to fire safety in homes as the marshal 36235  
determines necessary. The rules adopted by the marshal shall be in 36236  
addition to those fire safety rules that the board of building 36237  
standards and the ~~public director of health council~~ are empowered 36238  
to adopt. In the event of a dispute between the marshal and 36239  
another officer having responsibilities under sections 3721.01 to 36240  
3721.09 of the Revised Code with respect to the interpretation or 36241  
application of a specific fire safety statute or rule, the 36242  
interpretation of the marshal shall prevail. 36243

**Sec. 3721.04.** (A) The ~~public director of health council~~ shall 36244  
adopt and publish rules governing the operation of homes, which 36245  
shall have uniform application throughout the state, and shall 36246  
prescribe standards for homes with respect to, but not limited to, 36247  
the following matters: 36248

(1) The minimum space requirements for occupants and 36249  
equipping of the buildings in which homes are housed so as to 36250  
ensure healthful, safe, sanitary, and comfortable conditions for 36251  
all residents, so long as they are not inconsistent with Chapters 36252  
3781. and 3791. of the Revised Code or with any rules adopted by 36253  
the board of building standards and by the state fire marshal; 36254

(2) The number and qualifications of personnel, including 36255  
management and nursing staff, for each class of home, and the 36256

qualifications of nurse aides, as defined in section 3721.21 of 36257  
the Revised Code, used by long-term care facilities, as defined in 36258  
that section; 36259

(3) The medical, rehabilitative, and recreational services to 36260  
be provided by each class of home; 36261

(4) Dietetic services, including but not limited to 36262  
sanitation, nutritional adequacy, and palatability of food; 36263

(5) The personal and social services to be provided by each 36264  
class of home; 36265

(6) The business and accounting practices to be followed and 36266  
the type of patient and business records to be kept by such homes; 36267

(7) The operation of adult day-care programs provided by and 36268  
on the same site as homes licensed under this chapter; 36269

(8) The standards and procedures to be followed by 36270  
residential care facilities in admitting and retaining a resident 36271  
who requires the application of dressings, including requirements 36272  
for charting and evaluating on a weekly basis; 36273

(9) The requirements for conducting weekly evaluations of 36274  
residents receiving skilled nursing care in residential care 36275  
facilities. 36276

(B) The ~~public health council~~ director may adopt whatever 36277  
additional rules are necessary to carry out or enforce the 36278  
provisions of sections 3721.01 to 3721.09 and 3721.99 of the 36279  
Revised Code. 36280

(C) The following apply to the ~~public health council~~ director 36281  
when adopting rules under division (A)(1) of this section 36282  
regarding the equipping of the buildings in which homes are 36283  
housed: 36284

(1) The rules shall not require that each resident sleeping 36285  
room, or a percentage of the resident sleeping rooms, have a 36286

bathtub or shower that is directly accessible from or exclusively for the room. 36287  
36288

(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. 36289  
36290  
36291

(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: 36292  
36293  
36294

(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: 36295  
36296  
36297  
36298

(a) Provision of personal care services; 36299

(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code; 36300  
36301

(c) Provision of skilled nursing care to residents pursuant to division (D) of section 3721.011 of the Revised Code. 36302  
36303

(2) When adopting rules applicable to nursing homes, the ~~public health council~~ director shall require each nursing home to do both of the following: 36304  
36305  
36306

(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner; 36307  
36308

(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident: 36309  
36310

(i) Registered nurses, including registered nurses who perform administrative and supervisory duties; 36311  
36312

(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties; 36313  
36314

(iii) Nurse aides. 36315

(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 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 one hundred twenty beds to employ on a full-time basis one individual licensed as a social worker under Chapter 4757. of the Revised Code.

(3) The rules shall require each nursing home to offer its residents medically related social services that assist the residents in attaining or maintaining their highest practicable physical, mental, and psychosocial well-being.

**Sec. 3721.07.** Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the

applicant and, if required by section 3721.02 of the Revised Code, 36347  
inspection of the home, the following requirements or conditions 36348  
are satisfied or complied with: 36349

(A) The applicant has not been convicted of a felony or a 36350  
crime involving moral turpitude; 36351

(B) The applicant is not violating any of the rules ~~made~~ 36352  
adopted by the ~~public director of health council~~ or any order 36353  
issued by the director ~~of health~~; 36354

(C) The applicant has not had a license to operate the home 36355  
revoked pursuant to section 3721.03 of the Revised Code because of 36356  
any act or omission that jeopardized a resident's health, welfare, 36357  
or safety nor has the applicant had a long-standing pattern of 36358  
violations of this chapter or rules adopted under it that caused 36359  
physical, emotional, mental, or psychosocial harm to one or more 36360  
residents. 36361

(D) The buildings in which the home is housed have been 36362  
approved by the state fire marshal or a township, municipal, or 36363  
other legally constituted fire department approved by the marshal. 36364  
In the approval of a home such agencies shall apply standards 36365  
prescribed by the board of building standards, and by the state 36366  
fire marshal, and by section 3721.071 of the Revised Code. 36367

(E) The applicant, if it is an individual, or the principal 36368  
participants, if it is an association or a corporation, is or are 36369  
suitable financially and morally to operate a home; 36370

(F) The applicant is equipped to furnish humane, kind, and 36371  
adequate treatment and care; 36372

(G) The home does not maintain or contain: 36373

(1) Facilities for the performance of major surgical 36374  
procedures; 36375

(2) Facilities for providing therapeutic radiation; 36376

(3) An emergency ward; 36377

(4) A clinical laboratory unless it is under the supervision 36378  
of a clinical pathologist who is a licensed physician in this 36379  
state; 36380

(5) Facilities for radiological examinations unless such 36381  
examinations are performed only by a person licensed to practice 36382  
medicine, surgery, or dentistry in this state. 36383

(H) The home does not accept or treat outpatients, except 36384  
upon the written orders of a physician licensed in this state, 36385  
maternity cases, boarding children, and does not house transient 36386  
guests, other than participants in an adult day-care program, for 36387  
twenty-four hours or less; 36388

(I) The home is in compliance with sections 3721.28 and 36389  
3721.29 of the Revised Code. 36390

When the director issues a license, the license shall remain 36391  
in effect until revoked by the director or voided at the request 36392  
of the applicant; provided, there shall be an annual renewal fee 36393  
payable during the month of January of each calendar year. Any 36394  
licensed home that does not pay its renewal fee in January shall 36395  
pay, beginning the first day of February, a late fee of one 36396  
hundred dollars for each week or part thereof that the renewal fee 36397  
is not paid. If either the renewal fee or the late fee is not paid 36398  
by the fifteenth day of February, the director may, in accordance 36399  
with Chapter 119. of the Revised Code, revoke the home's license. 36400

If, under division (B)(5) of section 3721.03 of the Revised 36401  
Code, the license of a person has been revoked or the license of a 36402  
county home or district home to operate as a residential care 36403  
facility has been revoked, the director of health shall not issue 36404  
a license to the person or home at any time. A person whose 36405  
license is revoked, and a county home or district home that has 36406  
its license as a residential care facility revoked other than 36407

under division (B)(5) of section 3721.03 of the Revised Code, for 36408  
any reason other than nonpayment of the license renewal fee or 36409  
late fees shall not be issued a new license under this chapter 36410  
until a period of one year following the date of revocation has 36411  
elapsed. 36412

Any applicant who is denied a license may appeal in 36413  
accordance with Chapter 119. of the Revised Code. 36414

**Sec. 3721.071.** The buildings in which a home is housed shall 36415  
be equipped with both an automatic fire extinguishing system and 36416  
fire alarm system. Such systems shall conform to standards set 36417  
forth in the regulations of the board of building standards and 36418  
the state fire marshal. 36419

The time for compliance with the requirements imposed by this 36420  
section shall be January 1, 1975, except that the date for 36421  
compliance with the automatic fire extinguishing requirements is 36422  
extended to January 1, 1976, provided the buildings of the home 36423  
are otherwise in compliance with fire safety laws and regulations 36424  
and: 36425

(A) The home within thirty days after August 4, 1975, files a 36426  
written plan with the state fire marshal's office that: 36427

(1) Outlines the interim safety procedures which shall be 36428  
carried out to reduce the possibility of a fire; 36429

(2) Provides evidence that the home has entered into an 36430  
agreement for a fire safety inspection to be conducted not less 36431  
than monthly by a qualified independent safety engineer consultant 36432  
or a township, municipal, or other legally constituted fire 36433  
department, or by a township or municipal fire prevention officer; 36434

(3) Provides verification that the home has entered into a 36435  
valid contract for the installation of an automatic fire 36436  
extinguishing system or fire alarm system, or both, as required to 36437

comply with this section; 36438

(4) Includes a statement regarding the expected date for the 36439  
completion of the fire extinguishing system or fire alarm system, 36440  
or both. 36441

(B) Inspections by a qualified independent safety engineer 36442  
consultant or a township, municipal, or other legally constituted 36443  
fire department, or by a township or municipal fire prevention 36444  
officer are initiated no later than sixty days after August 4, 36445  
1975, and are conducted no less than monthly thereafter, and 36446  
reports of the consultant, fire department, or fire prevention 36447  
officer identifying existing hazards and recommended corrective 36448  
actions are submitted to the state fire marshal, the division of 36449  
~~labor~~ industrial compliance in the department of commerce, and the 36450  
department of health. 36451

It is the express intent of the general assembly that the 36452  
department of job and family services shall terminate payments 36453  
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 36454  
42 U.S.C. 301, as amended, to those homes which do not comply with 36455  
the requirements of this section for the submission of a written 36456  
fire safety plan and the deadline for entering into contracts for 36457  
the installation of systems. 36458

**Sec. 3721.121.** (A) As used in this section: 36459

(1) "Adult day-care program" means a program operated 36460  
pursuant to rules adopted by the ~~public~~ director of health council 36461  
under section 3721.04 of the Revised Code and provided by and on 36462  
the same site as homes licensed under this chapter. 36463

(2) "Applicant" means a person who is under final 36464  
consideration for employment with a home or adult day-care program 36465  
in a full-time, part-time, or temporary position that involves 36466  
providing direct care to an older adult. "Applicant" does not 36467

include a person who provides direct care as a volunteer without 36468  
receiving or expecting to receive any form of remuneration other 36469  
than reimbursement for actual expenses. 36470

(3) "Criminal records check" ~~and "older adult" have~~ has the 36471  
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 36472

(4) "Home" means a home as defined in section 3721.10 of the 36473  
Revised Code. 36474

(5) "Older adult" means a person age sixty or older. 36475

(B)(1) Except as provided in division (I) of this section, 36476  
the chief administrator of a home or adult day-care program shall 36477  
request that the superintendent of the bureau of criminal 36478  
identification and investigation conduct a criminal records check 36479  
~~with respect to~~ of each applicant. If an applicant for whom a 36480  
criminal records check request is required under this division 36481  
does not present proof of having been a resident of this state for 36482  
the five-year period immediately prior to the date the criminal 36483  
records check is requested or provide evidence that within that 36484  
five-year period the superintendent has requested information 36485  
about the applicant from the federal bureau of investigation in a 36486  
criminal records check, the chief administrator shall request that 36487  
the superintendent obtain information from the federal bureau of 36488  
investigation as part of the criminal records check of the 36489  
applicant. Even if an applicant for whom a criminal records check 36490  
request is required under this division presents proof of having 36491  
been a resident of this state for the five-year period, the chief 36492  
administrator may request that the superintendent include 36493  
information from the federal bureau of investigation in the 36494  
criminal records check. 36495

(2) A person required by division (B)(1) of this section to 36496  
request a criminal records check shall do both of the following: 36497

(a) Provide to each applicant for whom a criminal records 36498

check request is required under that division a copy of the form 36499  
prescribed pursuant to division (C)(1) of section 109.572 of the 36500  
Revised Code and a standard fingerprint impression sheet 36501  
prescribed pursuant to division (C)(2) of that section, and obtain 36502  
the completed form and impression sheet from the applicant; 36503

(b) Forward the completed form and impression sheet to the 36504  
superintendent of the bureau of criminal identification and 36505  
investigation. 36506

(3) An applicant provided the form and fingerprint impression 36507  
sheet under division (B)(2)(a) of this section who fails to 36508  
complete the form or provide fingerprint impressions shall not be 36509  
employed in any position for which a criminal records check is 36510  
required by this section. 36511

(C)(1) Except as provided in rules adopted by the director of 36512  
health in accordance with division (F) of this section and subject 36513  
to division (C)(2) of this section, no home or adult day-care 36514  
program shall employ a person in a position that involves 36515  
providing direct care to an older adult if the person has been 36516  
convicted of or pleaded guilty to any of the following: 36517

(a) A violation of section 2903.01, 2903.02, 2903.03, 36518  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 36519  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 36520  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 36521  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 36522  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 36523  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 36524  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 36525  
2925.22, 2925.23, or 3716.11 of the Revised Code. 36526

(b) A violation of an existing or former law of this state, 36527  
any other state, or the United States that is substantially 36528  
equivalent to any of the offenses listed in division (C)(1)(a) of 36529

this section. 36530

(2)(a) A home or an adult day-care program may employ 36531  
conditionally an applicant for whom a criminal records check 36532  
request is required under division (B) of this section prior to 36533  
obtaining the results of a criminal records check regarding the 36534  
individual, provided that the home or program shall request a 36535  
criminal records check regarding the individual in accordance with 36536  
division (B)(1) of this section not later than five business days 36537  
after the individual begins conditional employment. In the 36538  
circumstances described in division (I)(2) of this section, a home 36539  
or adult day-care program may employ conditionally an applicant 36540  
who has been referred to the home or adult day-care program by an 36541  
employment service that supplies full-time, part-time, or 36542  
temporary staff for positions involving the direct care of older 36543  
adults and for whom, pursuant to that division, a criminal records 36544  
check is not required under division (B) of this section. 36545

(b) A home or adult day-care program that employs an 36546  
individual conditionally under authority of division (C)(2)(a) of 36547  
this section shall terminate the individual's employment if the 36548  
results of the criminal records check requested under division (B) 36549  
of this section or described in division (I)(2) of this section, 36550  
other than the results of any request for information from the 36551  
federal bureau of investigation, are not obtained within the 36552  
period ending thirty days after the date the request is made. 36553  
Regardless of when the results of the criminal records check are 36554  
obtained, if the results indicate that the individual has been 36555  
convicted of or pleaded guilty to any of the offenses listed or 36556  
described in division (C)(1) of this section, the home or program 36557  
shall terminate the individual's employment unless the home or 36558  
program chooses to employ the individual pursuant to division (F) 36559  
of this section. Termination of employment under this division 36560  
shall be considered just cause for discharge for purposes of 36561

division (D)(2) of section 4141.29 of the Revised Code if the 36562  
individual makes any attempt to deceive the home or program about 36563  
the individual's criminal record. 36564

(D)(1) Each home or adult day-care program shall pay to the 36565  
bureau of criminal identification and investigation the fee 36566  
prescribed pursuant to division (C)(3) of section 109.572 of the 36567  
Revised Code for each criminal records check conducted pursuant to 36568  
a request made under division (B) of this section. 36569

(2) A home or adult day-care program may charge an applicant 36570  
a fee not exceeding the amount the home or program pays under 36571  
division (D)(1) of this section. A home or program may collect a 36572  
fee only if both of the following apply: 36573

(a) The home or program notifies the person at the time of 36574  
initial application for employment of the amount of the fee and 36575  
that, unless the fee is paid, the person will not be considered 36576  
for employment; 36577

(b) The medical assistance program established under Chapter 36578  
5111. of the Revised Code does not reimburse the home or program 36579  
the fee it pays under division (D)(1) of this section. 36580

(E) The report of any criminal records check conducted 36581  
pursuant to a request made under this section is not a public 36582  
record for the purposes of section 149.43 of the Revised Code and 36583  
shall not be made available to any person other than the 36584  
following: 36585

(1) The individual who is the subject of the criminal records 36586  
check or the individual's representative; 36587

(2) The chief administrator of the home or program requesting 36588  
the criminal records check or the administrator's representative; 36589

(3) The administrator of any other facility, agency, or 36590  
program that provides direct care to older adults that is owned or 36591

operated by the same entity that owns or operates the home or program; 36592  
36593

(4) A court, hearing officer, or other necessary individual 36594  
involved in a case dealing with a denial of employment of the 36595  
applicant or dealing with employment or unemployment benefits of 36596  
the applicant; 36597

(5) Any person to whom the report is provided pursuant to, 36598  
and in accordance with, division (I)(1) or (2) of this section; 36599

(6) The board of nursing for purposes of accepting and 36600  
processing an application for a medication aide certificate issued 36601  
under Chapter 4723. of the Revised Code. 36602

(F) In accordance with section 3721.11 of the Revised Code, 36603  
the director of health shall adopt rules to implement this 36604  
section. The rules shall specify circumstances under which a home 36605  
or adult day-care program may employ a person who has been 36606  
convicted of or pleaded guilty to an offense listed or described 36607  
in division (C)(1) of this section but meets personal character 36608  
standards set by the director. 36609

(G) The chief administrator of a home or adult day-care 36610  
program shall inform each individual, at the time of initial 36611  
application for a position that involves providing direct care to 36612  
an older adult, that the individual is required to provide a set 36613  
of fingerprint impressions and that a criminal records check is 36614  
required to be conducted if the individual comes under final 36615  
consideration for employment. 36616

(H) In a tort or other civil action for damages that is 36617  
brought as the result of an injury, death, or loss to person or 36618  
property caused by an individual who a home or adult day-care 36619  
program employs in a position that involves providing direct care 36620  
to older adults, all of the following shall apply: 36621

(1) If the home or program employed the individual in good 36622

faith and reasonable reliance on the report of a criminal records 36623  
check requested under this section, the home or program shall not 36624  
be found negligent solely because of its reliance on the report, 36625  
even if the information in the report is determined later to have 36626  
been incomplete or inaccurate; 36627

(2) If the home or program employed the individual in good 36628  
faith on a conditional basis pursuant to division (C)(2) of this 36629  
section, the home or program shall not be found negligent solely 36630  
because it employed the individual prior to receiving the report 36631  
of a criminal records check requested under this section; 36632

(3) If the home or program in good faith employed the 36633  
individual according to the personal character standards 36634  
established in rules adopted under division (F) of this section, 36635  
the home or program shall not be found negligent solely because 36636  
the individual prior to being employed had been convicted of or 36637  
pleaded guilty to an offense listed or described in division 36638  
(C)(1) of this section. 36639

(I)(1) The chief administrator of a home or adult day-care 36640  
program is not required to request that the superintendent of the 36641  
bureau of criminal identification and investigation conduct a 36642  
criminal records check of an applicant if the applicant has been 36643  
referred to the home or program by an employment service that 36644  
supplies full-time, part-time, or temporary staff for positions 36645  
involving the direct care of older adults and both of the 36646  
following apply: 36647

(a) The chief administrator receives from the employment 36648  
service or the applicant a report of the results of a criminal 36649  
records check regarding the applicant that has been conducted by 36650  
the superintendent within the one-year period immediately 36651  
preceding the applicant's referral; 36652

(b) The report of the criminal records check demonstrates 36653

that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or adult day-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of

this section applies regarding the conditional employment. 36687

**Sec. 3721.13.** (A) The rights of residents of a home shall 36688  
include, but are not limited to, the following: 36689

(1) The right to a safe and clean living environment pursuant 36690  
to the medicare and medicaid programs and applicable state laws 36691  
and ~~regulations prescribed~~ rules adopted by the ~~public director of~~  
health ~~council~~; 36692  
36693

(2) The right to be free from physical, verbal, mental, and 36694  
emotional abuse and to be treated at all times with courtesy, 36695  
respect, and full recognition of dignity and individuality; 36696

(3) Upon admission and thereafter, the right to adequate and 36697  
appropriate medical treatment and nursing care and to other 36698  
ancillary services that comprise necessary and appropriate care 36699  
consistent with the program for which the resident contracted. 36700  
This care shall be provided without regard to considerations such 36701  
as race, color, religion, national origin, age, or source of 36702  
payment for care. 36703

(4) The right to have all reasonable requests and inquiries 36704  
responded to promptly; 36705

(5) The right to have clothes and bed sheets changed as the 36706  
need arises, to ensure the resident's comfort or sanitation; 36707

(6) The right to obtain from the home, upon request, the name 36708  
and any specialty of any physician or other person responsible for 36709  
the resident's care or for the coordination of care; 36710

(7) The right, upon request, to be assigned, within the 36711  
capacity of the home to make the assignment, to the staff 36712  
physician of the resident's choice, and the right, in accordance 36713  
with the rules and written policies and procedures of the home, to 36714  
select as the attending physician a physician who is not on the 36715  
staff of the home. If the cost of a physician's services is to be 36716

met under a federally supported program, the physician shall meet 36717  
the federal laws and regulations governing such services. 36718

(8) The right to participate in decisions that affect the 36719  
resident's life, including the right to communicate with the 36720  
physician and employees of the home in planning the resident's 36721  
treatment or care and to obtain from the attending physician 36722  
complete and current information concerning medical condition, 36723  
prognosis, and treatment plan, in terms the resident can 36724  
reasonably be expected to understand; the right of access to all 36725  
information in the resident's medical record; and the right to 36726  
give or withhold informed consent for treatment after the 36727  
consequences of that choice have been carefully explained. When 36728  
the attending physician finds that it is not medically advisable 36729  
to give the information to the resident, the information shall be 36730  
made available to the resident's sponsor on the resident's behalf, 36731  
if the sponsor has a legal interest or is authorized by the 36732  
resident to receive the information. The home is not liable for a 36733  
violation of this division if the violation is found to be the 36734  
result of an act or omission on the part of a physician selected 36735  
by the resident who is not otherwise affiliated with the home. 36736

(9) The right to withhold payment for physician visitation if 36737  
the physician did not visit the resident; 36738

(10) The right to confidential treatment of personal and 36739  
medical records, and the right to approve or refuse the release of 36740  
these records to any individual outside the home, except in case 36741  
of transfer to another home, hospital, or health care system, as 36742  
required by law or rule, or as required by a third-party payment 36743  
contract; 36744

(11) The right to privacy during medical examination or 36745  
treatment and in the care of personal or bodily needs; 36746

(12) The right to refuse, without jeopardizing access to 36747

appropriate medical care, to serve as a medical research subject; 36748

(13) The right to be free from physical or chemical 36749  
restraints or prolonged isolation except to the minimum extent 36750  
necessary to protect the resident from injury to self, others, or 36751  
to property and except as authorized in writing by the attending 36752  
physician for a specified and limited period of time and 36753  
documented in the resident's medical record. Prior to authorizing 36754  
the use of a physical or chemical restraint on any resident, the 36755  
attending physician shall make a personal examination of the 36756  
resident and an individualized determination of the need to use 36757  
the restraint on that resident. 36758

Physical or chemical restraints or isolation may be used in 36759  
an emergency situation without authorization of the attending 36760  
physician only to protect the resident from injury to self or 36761  
others. Use of the physical or chemical restraints or isolation 36762  
shall not be continued for more than twelve hours after the onset 36763  
of the emergency without personal examination and authorization by 36764  
the attending physician. The attending physician or a staff 36765  
physician may authorize continued use of physical or chemical 36766  
restraints for a period not to exceed thirty days, and at the end 36767  
of this period and any subsequent period may extend the 36768  
authorization for an additional period of not more than thirty 36769  
days. The use of physical or chemical restraints shall not be 36770  
continued without a personal examination of the resident and the 36771  
written authorization of the attending physician stating the 36772  
reasons for continuing the restraint. 36773

If physical or chemical restraints are used under this 36774  
division, the home shall ensure that the restrained resident 36775  
receives a proper diet. In no event shall physical or chemical 36776  
restraints or isolation be used for punishment, incentive, or 36777  
convenience. 36778

(14) The right to the pharmacist of the resident's choice and 36779

the right to receive pharmaceutical supplies and services at 36780  
reasonable prices not exceeding applicable and normally accepted 36781  
prices for comparably packaged pharmaceutical supplies and 36782  
services within the community; 36783

(15) The right to exercise all civil rights, unless the 36784  
resident has been adjudicated incompetent pursuant to Chapter 36785  
2111. of the Revised Code and has not been restored to legal 36786  
capacity, as well as the right to the cooperation of the home's 36787  
administrator in making arrangements for the exercise of the right 36788  
to vote; 36789

(16) The right of access to opportunities that enable the 36790  
resident, at the resident's own expense or at the expense of a 36791  
third-party payer, to achieve the resident's fullest potential, 36792  
including educational, vocational, social, recreational, and 36793  
habilitation programs; 36794

(17) The right to consume a reasonable amount of alcoholic 36795  
beverages at the resident's own expense, unless not medically 36796  
advisable as documented in the resident's medical record by the 36797  
attending physician or unless contradictory to written admission 36798  
policies; 36799

(18) The right to use tobacco at the resident's own expense 36800  
under the home's safety rules and under applicable laws and rules 36801  
of the state, unless not medically advisable as documented in the 36802  
resident's medical record by the attending physician or unless 36803  
contradictory to written admission policies; 36804

(19) The right to retire and rise in accordance with the 36805  
resident's reasonable requests, if the resident does not disturb 36806  
others or the posted meal schedules and upon the home's request 36807  
remains in a supervised area, unless not medically advisable as 36808  
documented by the attending physician; 36809

(20) The right to observe religious obligations and 36810

participate in religious activities; the right to maintain 36811  
individual and cultural identity; and the right to meet with and 36812  
participate in activities of social and community groups at the 36813  
resident's or the group's initiative; 36814

(21) The right upon reasonable request to private and 36815  
unrestricted communications with the resident's family, social 36816  
worker, and any other person, unless not medically advisable as 36817  
documented in the resident's medical record by the attending 36818  
physician, except that communications with public officials or 36819  
with the resident's attorney or physician shall not be restricted. 36820  
Private and unrestricted communications shall include, but are not 36821  
limited to, the right to: 36822

(a) Receive, send, and mail sealed, unopened correspondence; 36823

(b) Reasonable access to a telephone for private 36824  
communications; 36825

(c) Private visits at any reasonable hour. 36826

(22) The right to assured privacy for visits by the spouse, 36827  
or if both are residents of the same home, the right to share a 36828  
room within the capacity of the home, unless not medically 36829  
advisable as documented in the resident's medical record by the 36830  
attending physician; 36831

(23) The right upon reasonable request to have room doors 36832  
closed and to have them not opened without knocking, except in the 36833  
case of an emergency or unless not medically advisable as 36834  
documented in the resident's medical record by the attending 36835  
physician; 36836

(24) The right to retain and use personal clothing and a 36837  
reasonable amount of possessions, in a reasonably secure manner, 36838  
unless to do so would infringe on the rights of other residents or 36839  
would not be medically advisable as documented in the resident's 36840  
medical record by the attending physician; 36841

(25) The right to be fully informed, prior to or at the time of admission and during the resident's stay, in writing, of the basic rate charged by the home, of services available in the home, and of any additional charges related to such services, including charges for services not covered under the medicare or medicaid program. The basic rate shall not be changed unless thirty days' notice is given to the resident or, if the resident is unable to understand this information, to the resident's sponsor.

(26) The right of the resident and person paying for the care to examine and receive a bill at least monthly for the resident's care from the home that itemizes charges not included in the basic rates;

(27)(a) The right to be free from financial exploitation;

(b) The right to manage the resident's own personal financial affairs, or, if the resident has delegated this responsibility in writing to the home, to receive upon written request at least a quarterly accounting statement of financial transactions made on the resident's behalf. The statement shall include:

(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

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| resident's room or roommate is changed, including an explanation   | 36873 |
| of the reason for either change.                                   | 36874 |
| (30) The right not to be transferred or discharged from the        | 36875 |
| home unless the transfer is necessary because of one of the        | 36876 |
| following:   | 36877 |
| (a) The welfare and needs of the resident cannot be met in         | 36878 |
| the home.  | 36879 |
| (b) The resident's health has improved sufficiently so that        | 36880 |
| the resident no longer needs the services provided by the home.    | 36881 |
| (c) The safety of individuals in the home is endangered.           | 36882 |
| (d) The health of individuals in the home would otherwise be       | 36883 |
| endangered.  | 36884 |
| (e) The resident has failed, after reasonable and appropriate      | 36885 |
| notice, to pay or to have the medicare or medicaid program pay on  | 36886 |
| the resident's behalf, for the care provided by the home. A        | 36887 |
| resident shall not be considered to have failed to have the        | 36888 |
| resident's care paid for if the resident has applied for medicaid, | 36889 |
| unless both of the following are the case:                         | 36890 |
| (i) The resident's application, or a substantially similar         | 36891 |
| previous application, has been denied by the county department of  | 36892 |
| job and family services.   | 36893 |
| (ii) If the resident appealed the denial pursuant to division      | 36894 |
| (C) of section 5101.35 of the Revised Code, the director of job    | 36895 |
| and family services has upheld the denial.                         | 36896 |
| (f) The home's license has been revoked, the home is being         | 36897 |
| closed pursuant to section 3721.08, sections 5111.35 to 5111.62,   | 36898 |
| or section 5155.31 of the Revised Code, or the home otherwise      | 36899 |
| ceases to operate.   | 36900 |
| (g) The resident is a recipient of medicaid, and the home's        | 36901 |
| participation in the medicaid program is involuntarily terminated  | 36902 |

or denied. 36903

(h) The resident is a beneficiary under the medicare program, 36904  
and the home's participation in the medicare program is 36905  
involuntarily terminated or denied. 36906

(31) The right to voice grievances and recommend changes in 36907  
policies and services to the home's staff, to employees of the 36908  
department of health, or to other persons not associated with the 36909  
operation of the home, of the resident's choice, free from 36910  
restraint, interference, coercion, discrimination, or reprisal. 36911  
This right includes access to a residents' rights advocate, and 36912  
the right to be a member of, to be active in, and to associate 36913  
with persons who are active in organizations of relatives and 36914  
friends of nursing home residents and other organizations engaged 36915  
in assisting residents. 36916

(32) The right to have any significant change in the 36917  
resident's health status reported to the resident's sponsor. As 36918  
soon as such a change is known to the home's staff, the home shall 36919  
make a reasonable effort to notify the sponsor within twelve 36920  
hours. 36921

(B) A sponsor may act on a resident's behalf to assure that 36922  
the home does not deny the residents' rights under sections 36923  
3721.10 to 3721.17 of the Revised Code. 36924

(C) Any attempted waiver of the rights listed in division (A) 36925  
of this section is void. 36926

**Sec. 3721.21.** As used in sections 3721.21 to 3721.34 of the 36927  
Revised Code: 36928

(A) "Long-term care facility" means either of the following: 36929

(1) A nursing home as defined in section 3721.01 of the 36930  
Revised Code, ~~other than a nursing home or part of a nursing home~~ 36931  
~~certified as an intermediate care facility for the mentally~~ 36932

~~retarded under Title XIX of the "Social Security Act," 49 Stat.~~ 36933  
~~620 (1935), 42 U.S.C.A. 301, as amended;~~ 36934

(2) A facility or part of a facility that is certified as a 36935  
skilled nursing facility or a nursing facility under Title XVIII 36936  
or XIX of the "Social Security Act." 36937

(B) "Residential care facility" has the same meaning as in 36938  
section 3721.01 of the Revised Code. 36939

(C) "Abuse" means knowingly causing physical harm or 36940  
recklessly causing serious physical harm to a resident by physical 36941  
contact with the resident or by use of physical or chemical 36942  
restraint, medication, or isolation as punishment, for staff 36943  
convenience, excessively, as a substitute for treatment, or in 36944  
amounts that preclude habilitation and treatment. 36945

(D) "Neglect" means recklessly failing to provide a resident 36946  
with any treatment, care, goods, or service necessary to maintain 36947  
the health or safety of the resident when the failure results in 36948  
serious physical harm to the resident. "Neglect" does not include 36949  
allowing a resident, at the resident's option, to receive only 36950  
treatment by spiritual means through prayer in accordance with the 36951  
tenets of a recognized religious denomination. 36952

(E) "Misappropriation" means depriving, defrauding, or 36953  
otherwise obtaining the real or personal property of a resident by 36954  
any means prohibited by the Revised Code, including violations of 36955  
Chapter 2911. or 2913. of the Revised Code. 36956

(F) "Resident" includes a resident, patient, former resident 36957  
or patient, or deceased resident or patient of a long-term care 36958  
facility or a residential care facility. 36959

(G) "Physical restraint" has the same meaning as in section 36960  
3721.10 of the Revised Code. 36961

(H) "Chemical restraint" has the same meaning as in section 36962

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| 3721.10 of the Revised Code.   | 36963  |
| (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 <del>public</del> <u>public director of health council</u> shall adopt in accordance with Chapter 119. of the Revised Code.   | 36964<br>36965<br>36966<br>36967<br>36968          |
| (J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.   | 36969<br>36970                                     |
| (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.                                       | 36971<br>36972<br>36973<br>36974<br>36975<br>36976 |
| (2) "Nurse aide" does not include either of the following:   | 36977  |
| (a) A licensed health professional practicing within the scope of the professional's license;  | 36978<br>36979                                     |
| (b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution. | 36980<br>36981<br>36982<br>36983<br>36984<br>36985 |
| (L) "Licensed health professional" means all of the following:   | 36986<br>36987                                     |
| (1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;  | 36988<br>36989                                     |
| (2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;   | 36990<br>36991                                     |
| (3) A physician authorized under Chapter 4731. of the Revised  | 36992  |

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| Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;  | 36993 |
|  | 36994 |
| (4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;   | 36995 |
|  | 36996 |
| (5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;   | 36997 |
|  | 36998 |
| (6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;  | 36999 |
|  | 37000 |
|  | 37001 |
| (7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;   | 37002 |
|  | 37003 |
| (8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;  | 37004 |
|  | 37005 |
| (9) An optometrist licensed under Chapter 4725. of the Revised Code;   | 37006 |
|  | 37007 |
| (10) A pharmacist licensed under Chapter 4729. of the Revised Code;  | 37008 |
|  | 37009 |
| (11) A psychologist licensed under Chapter 4732. of the Revised Code;  | 37010 |
|  | 37011 |
| (12) A chiropractor licensed under Chapter 4734. of the Revised Code;  | 37012 |
|  | 37013 |
| (13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;  | 37014 |
|  | 37015 |
| (14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.   | 37016 |
|  | 37017 |
| (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 | 37018 |
|  | 37019 |
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|  | 37021 |

post-hospital extended care services furnished to an individual in 37022  
a religious nonmedical health care institution, as defined in 37023  
section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 37024  
(1965), 42 U.S.C. 1395x(ss)(1), as amended. 37025

(N) "Competency evaluation program" means a program through 37026  
which the competency of a nurse aide to provide nursing and 37027  
nursing-related services is evaluated. 37028

(O) "Training and competency evaluation program" means a 37029  
program of nurse aide training and evaluation of competency to 37030  
provide nursing and nursing-related services. 37031

**Sec. 3721.28.** (A)(1) Each nurse aide used by a long-term care 37032  
facility on a full-time, temporary, per diem, or other basis on 37033  
July 1, 1989, shall be provided by the facility a competency 37034  
evaluation program approved by the director of health under 37035  
division (A) of section 3721.31 of the Revised Code or conducted 37036  
by ~~him~~ the director under division (C) of that section. Each 37037  
long-term care facility using a nurse aide on July 1, 1989, shall 37038  
provide the nurse aide the preparation necessary to complete the 37039  
competency evaluation program by January 1, 1990. 37040

(2) Each nurse aide used by a long-term care facility on a 37041  
full-time, temporary, per diem, or other basis on January 1, 1990, 37042  
who either was not used by the facility on July 1, 1989, or was 37043  
used by the facility on July 1, 1989, but had not successfully 37044  
completed a competency evaluation program by January 1, 1990, 37045  
shall be provided by the facility a competency evaluation program 37046  
approved by the director under division (A) of section 3721.31 of 37047  
the Revised Code or conducted by ~~him~~ the director under division 37048  
(C) of that section. Each long-term care facility using a nurse 37049  
aide described in division (A)(2) of this section shall provide 37050  
the nurse aide the preparation necessary to complete the 37051  
competency evaluation program by October 1, 1990, and shall assist 37052

the nurse aide in registering for the program. 37053

(B) Effective June 1, 1990, no long-term care facility shall 37054  
use an individual as a nurse aide for more than four months unless 37055  
the individual is competent to provide the services ~~he~~ the 37056  
individual is to provide, the facility has received from the nurse 37057  
aide registry established under section 3721.32 of the Revised 37058  
Code the information concerning the individual provided through 37059  
the registry, and one of the following is the case: 37060

(1) The individual was used by a facility as a nurse aide on 37061  
a full-time, temporary, per diem, or other basis at any time 37062  
during the period commencing July 1, 1989, and ending January 1, 37063  
1990, and successfully completed, not later than October 1, 1990, 37064  
a competency evaluation program approved by the director under 37065  
division (A) of section 3721.31 of the Revised Code or conducted 37066  
by ~~him~~ the director under division (C) of that section. 37067

(2) The individual has successfully completed a training and 37068  
competency evaluation program approved by the director under 37069  
division (A) of section 3721.31 of the Revised Code or conducted 37070  
by ~~him~~ the director under division (C) of that section or has met 37071  
the conditions specified in division (F) of this section and, in 37072  
addition, if the training and competency evaluation program or the 37073  
training, instruction, or education the individual completed in 37074  
meeting the conditions specified in division (F) of this section 37075  
was conducted by or in a long-term care facility, or if the 37076  
director pursuant to division (E) of section 3721.31 of the 37077  
Revised Code so requires, the individual has successfully 37078  
completed a competency evaluation program conducted by the 37079  
director. 37080

(3) Prior to July 1, 1989, if the long-term care facility is 37081  
certified as a skilled nursing facility or a nursing facility 37082  
under Title XVIII or XIX of the "Social Security Act," 49 Stat. 37083  
620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1, 37084

1990, if the facility is not so certified, the individual 37085  
completed a program that the director determines included a 37086  
competency evaluation component no less stringent than the 37087  
competency evaluation programs approved by ~~him~~ the director under 37088  
division (A) of section 3721.31 of the Revised Code or conducted 37089  
by ~~him~~ the director under division (C) of that section, and was 37090  
otherwise comparable to the training and competency evaluation 37091  
programs being approved by the director under division (A) of that 37092  
section. 37093

(4) The individual is listed in a nurse aide registry 37094  
maintained by another state and that state certifies that its 37095  
program for training and evaluation of competency of nurse aides 37096  
complies with Titles XVIII and XIX of the "Social Security Act" 37097  
and regulations adopted thereunder. 37098

(5) Prior to July 1, 1989, the individual was found competent 37099  
to serve as a nurse aide after the completion of a course of nurse 37100  
aide training of at least one hundred hours' duration. 37101

(6) The individual is enrolled in a prelicensure program of 37102  
nursing education approved by the board of nursing or by an agency 37103  
of another state that regulates nursing education, has provided 37104  
the long-term care facility with a certificate from the program 37105  
indicating that the individual has successfully completed the 37106  
courses that teach basic nursing skills including infection 37107  
control, safety and emergency procedures, and personal care, and 37108  
has successfully completed a competency evaluation program 37109  
conducted by the director under division (C) of section 3721.31 of 37110  
the Revised Code. 37111

(7) The individual has the equivalent of twelve months or 37112  
more of full-time employment in the preceding five years as a 37113  
hospital aide or orderly and has successfully completed a 37114  
competency evaluation program conducted by the director under 37115  
division (C) of section 3721.31 of the Revised Code. 37116

(C) Effective June 1, 1990, no long-term care facility shall  
continue for longer than four months to use as a nurse aide an  
individual who previously met the requirements of division (B) of  
this section but since most recently doing so has not performed  
nursing and nursing-related services for monetary compensation for  
twenty-four consecutive months, unless the individual successfully  
completes additional training and competency evaluation by  
complying with divisions (C)(1) and (2) of this section:

(1) Doing one of the following:

(a) Successfully completing a training and competency  
evaluation program approved by the director under division (A) of  
section 3721.31 of the Revised Code or conducted by ~~him~~ the  
director under division (C) of that section;

(b) Successfully completing a training and competency  
evaluation program described in division (B)(4) of this section;

(c) Meeting the requirements specified in division (B)(6) or  
(7) of this section.

(2) If the training and competency evaluation program  
completed under division (C)(1)(a) of this section was conducted  
by or in a long-term care facility, or if the director pursuant to  
division (E) of section 3721.31 of the Revised Code so requires,  
successfully completing a competency evaluation program conducted  
by the director.

(D)(1) The four-month periods provided for in divisions (B)  
and (C) of this section include any time, on or after June 1,  
1990, that an individual is used as a nurse aide on a full-time,  
temporary, per diem, or any other basis by the facility or any  
other long-term care facility.

(2) During the four-month period provided for in division (B)  
of this section, during which a long-term care facility may,  
subject to division (E) of this section, use as a nurse aide an

individual who does not have the qualifications specified in 37148  
divisions (B)(1) to (7) of this section, a facility shall require 37149  
the individual to comply with divisions (D)(2)(a) and (b) of this 37150  
section: 37151

(a) Participate in one of the following: 37152

(i) If the individual has successfully completed a training 37153  
and competency evaluation program approved by the director under 37154  
division (A) of section 3721.31 of the Revised Code, and the 37155  
program was conducted by or in a long-term care facility, or the 37156  
director pursuant to division (E) of section 3721.31 of the 37157  
Revised Code so requires, a competency evaluation program 37158  
conducted by the director; 37159

(ii) If the individual is enrolled in a prelicensure program 37160  
of nursing education described in division (B)(6) of this section 37161  
and has completed or is working toward completion of the courses 37162  
described in that division, or the individual has the experience 37163  
described in division (B)(7) of this section, a competency 37164  
evaluation program conducted by the director; 37165

(iii) A training and competency evaluation program approved 37166  
by the director under division (A) of section 3721.31 of the 37167  
Revised Code or conducted by ~~him~~ the director under division (C) 37168  
of that section. 37169

(b) If the individual participates in or has successfully 37170  
completed a training and competency evaluation program under 37171  
division (D)(2)(a)(iii) of this section that is conducted by or in 37172  
a long-term care facility, or the director pursuant to division 37173  
(E) of section 3721.31 of the Revised Code so requires, ~~participate~~ 37174  
participate in a competency evaluation program conducted by the 37175  
director. 37176

(3) During the four-month period provided for in division (C) 37177  
of this section, during which a long-term care facility may, 37178

subject to division (E) of this section, use as a nurse aide an 37179  
individual who does not have the qualifications specified in 37180  
divisions (C)(1) and (2) of this section, a facility shall require 37181  
the individual to comply with divisions (D)(3)(a) and (b) of this 37182  
section: 37183

(a) Participate in one of the following: 37184

(i) If the individual has successfully completed a training 37185  
and competency evaluation program approved by the director, and 37186  
the program was conducted by or in a long-term care facility, or 37187  
the director pursuant to division (E) of section 3721.31 of the 37188  
Revised Code so requires, a competency evaluation program 37189  
conducted by the director; 37190

(ii) If the individual is enrolled in a prelicensure program 37191  
of nursing education described in division (B)(6) of this section 37192  
and has completed or is working toward completion of the courses 37193  
described in that division, or the individual has the experience 37194  
described in division (B)(7) of this section, a competency 37195  
evaluation program conducted by the director; 37196

(iii) A training and competency evaluation program approved 37197  
or conducted by the director. 37198

(b) If the individual participates in or has successfully 37199  
completed a training and competency evaluation program under 37200  
division (D)(3)(a)(iii) of this section that is conducted by or in 37201  
a long-term care facility, or the director pursuant to division 37202  
(E) of section 3721.31 of the Revised Code so requires, 37203  
participate in a competency evaluation program conducted by the 37204  
director. 37205

(E) A long-term care facility shall not permit an individual 37206  
used by the facility as a nurse aide while participating in a 37207  
training and competency evaluation program to provide nursing and 37208  
nursing-related services unless both of the following are the 37209

case: 37210

(1) The individual has completed the number of hours of 37211  
training that ~~he must complete~~ be completed prior to providing 37212  
services to residents as prescribed by rules that shall be adopted 37213  
by the director in accordance with Chapter 119. of the Revised 37214  
Code; 37215

(2) The individual is under the personal supervision of a 37216  
registered or licensed practical nurse licensed under Chapter 37217  
4723. of the Revised Code. 37218

(F) An individual shall be considered to have satisfied the 37219  
requirement, under division (B)(2) of this section, of having 37220  
successfully completed a training and competency evaluation 37221  
program conducted or approved by the director, if the individual 37222  
meets both of the following conditions: 37223

(1) The individual, as of July 1, 1989, completed at least 37224  
sixty hours divided between skills training and classroom 37225  
instruction in the topic areas described in divisions (B)(1) to 37226  
(8) of section 3721.30 of the Revised Code; 37227

(2) The individual received, as of that date, at least the 37228  
difference between seventy-five hours and the number of hours 37229  
actually spent in training and competency evaluation in supervised 37230  
practical nurse aide training or regular in-service nurse aide 37231  
education. 37232

(G) The ~~public health council~~ director shall adopt rules in 37233  
accordance with Chapter 119. of the Revised Code specifying 37234  
persons, in addition to the director, who may establish competence 37235  
of nurse aides under division (B)(5) of this section, and 37236  
establishing criteria for determining whether an individual meets 37237  
the conditions specified in division (F) of this section. 37238

(H) The rules adopted pursuant to divisions (E)(1) and (G) of 37239  
this section shall be no less stringent than the requirements, 37240

guidelines, and procedures established by the United States 37241  
secretary of health and human services under sections 1819 and 37242  
1919 of the "Social Security Act." 37243

**Sec. 3721.29.** In addition to competency evaluation programs 37244  
and training and competency evaluation programs required by this 37245  
chapter, each long-term care facility shall provide both of the 37246  
following to each nurse aide it uses: 37247

(A) An orientation program that includes at least an 37248  
explanation of the organizational structure of the facility, its 37249  
policies and procedures, its philosophy of care, a description of 37250  
its resident population, and an enumeration of its employee rules; 37251

(B) Regular performance review and in-service education to 37252  
assure that individuals working in the facility as nurse aides are 37253  
competent to perform the nursing and nursing-related services they 37254  
perform. In-service education shall include training for nurse 37255  
aides providing nursing and nursing-related services to residents 37256  
and patients with cognitive impairments. 37257

The ~~public director of health council~~ shall adopt rules to 37258  
implement the purposes of this section. The rules shall be no less 37259  
stringent than the requirements, guidelines, and procedures 37260  
established by the United States secretary of health and human 37261  
services under sections 1819 and 1919 of the "Social Security 37262  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. 37263

**Sec. 3721.50.** As used in sections 3721.50 to 3721.58 of the 37264  
Revised Code: 37265

(A) "Bed surrender" means the following: 37266

(1) In the case of a nursing home, the removal of a bed from 37267  
a nursing home's licensed capacity in a manner that reduces the 37268  
total licensed capacity of all nursing homes; 37269

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds. 37270  
37271  
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37275

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator. 37276  
37277  
37278

(1) Actions that constitute a change of operator include the following: 37279  
37280

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 37281  
37282  
37283

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred; 37284  
37285  
37286  
37287  
37288

(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; 37289  
37290  
37291

(d) If the exiting operator is a partnership, dissolution of the partnership; 37292  
37293

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 37294  
37295

(i) The change in composition does not cause the partnership's dissolution under state law. 37296  
37297

(ii) The partners agree that the change in composition does not constitute a change in operator. 37298  
37299

|  |                                  |
|--|----------------------------------|
| (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. | 37300<br>37301<br>37302<br>37303 |
| (2) The following, alone, do not constitute a change of operator:  | 37304<br>37305                   |
| (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;   | 37306<br>37307<br>37308          |
| (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;             | 37309<br>37310<br>37311<br>37312 |
| (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.     | 37313<br>37314<br>37315<br>37316 |
| (C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.  | 37317<br>37318<br>37319          |
| (D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.   | 37320<br>37321<br>37322          |
| (E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.   | 37323<br>37324<br>37325          |
| (F) "Franchise permit fee rate" means the following:   | 37326                            |
| (1) For fiscal year 2012, eleven dollars and forty-seven cents;  | 37327<br>37328                   |
| (2) For fiscal year 2013 and each fiscal year thereafter,  | 37329                            |

eleven dollars and sixty-seven cents. 37330

(G) "Hospital" has the same meaning as in section 3727.01 of 37331  
the Revised Code. 37332

(H) "Hospital long-term care unit" means any distinct part of 37333  
a hospital in which any of the following beds are located: 37334

(1) Beds registered pursuant to section 3701.07 of the 37335  
Revised Code as skilled nursing facility beds or long-term care 37336  
beds; 37337

(2) Beds licensed as nursing home beds under section 3721.02 37338  
or 3721.09 of the Revised Code. 37339

(I) "Indirect guarantee percentage" means the percentage 37340  
specified in section 1903(w)(4)(C)(ii) of the "Social Security 37341  
Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is 37342  
to be used in determining whether a class of providers is 37343  
indirectly held harmless for any portion of the costs of a 37344  
broad-based health-care-related tax. If the indirect guarantee 37345  
percentage changes during a fiscal year, the indirect guarantee 37346  
percentage is the following: 37347

(1) For the part of the fiscal year before the change takes 37348  
effect, the percentage in effect before the change; 37349

(2) For the part of the fiscal year beginning with the date 37350  
the indirect guarantee percentage changes, the new percentage. 37351

(J) ~~"Inpatient days" means all days during which a resident 37352  
of a nursing facility, regardless of payment source, occupies a 37353  
bed in the nursing facility that is included in the facility's 37354  
certified capacity under Title XIX. Therapeutic or hospital leave 37355  
days for which payment is made under section 5111.26 of the 37356  
Revised Code are considered inpatient days proportionate to the 37357  
percentage of the facility's per resident per day rate paid for 37358  
those days.~~ 37359

~~(K)~~ "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 37360  
37361

~~(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. 37362  
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~~(M)~~(K) "Medicare" means the program established by Title XVIII. 37369  
37370

~~(N)~~(L) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 37371  
37372

~~(O)~~(M)(1) "Nursing home" means all of the following: 37373

(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; 37374  
37375  
37376

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII; 37377  
37378

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility. 37379  
37380

(2) "Nursing home" does not include ~~any~~ either of the following: 37381  
37382

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code; 37383  
37384

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code; 37385  
37386

~~(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under~~ 37387  
37388  
37389

|   |  |
|---|--|
| <del>Title XIX.</del>   | 37390  |
| <del>(P)</del> (N) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.  | 37391<br>37392<br>37393                            |
| <del>(Q)</del> (O) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.   | 37394<br>37395                                     |
| <del>(R)</del> (P) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.   | 37396<br>37397                                     |
| <b>Sec. 3721.51.</b> The department of job and family services shall do all of the following:   | 37398<br>37399                                     |
| (A) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following: | 37400<br>37401<br>37402<br>37403<br>37404<br>37405 |
| (1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;                                | 37406<br>37407<br>37408<br>37409<br>37410          |
| (2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.   | 37411<br>37412<br>37413<br>37414                   |
| (B) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate multiplied by the                               | 37415<br>37416<br>37417<br>37418<br>37419          |

product of the following: 37420

(1) The number of beds registered pursuant to section 3701.07 37421  
of the Revised Code as skilled nursing facility beds or long-term 37422  
care beds, plus any other beds licensed as nursing home beds under 37423  
section 3721.02 or 3721.09 of the Revised Code, on the first day 37424  
of May of the calendar year in which the fee is determined 37425  
pursuant to division (A) of section 3721.53 of the Revised Code; 37426

(2) The number of days in the fiscal year beginning on the 37427  
first day of July of the calendar year in which the fee is 37428  
determined pursuant to division (A) of section 3721.53 of the 37429  
Revised Code. 37430

(C) If the total amount of the franchise permit fee assessed 37431  
under divisions (A) and (B) of this section for a fiscal year 37432  
exceeds the indirect guarantee percentage of the actual net 37433  
patient revenue for all nursing homes and hospital long-term care 37434  
units for that fiscal year and seventy-five per cent or more of 37435  
the combined total number of nursing homes and hospital long-term 37436  
care units receive enhanced medicaid payments or other state 37437  
payments equal to seventy-five per cent or more of their total 37438  
franchise permit fee assessments, do both of the following: 37439

(1) Recalculate the assessments under divisions (A) and (B) 37440  
of this section using a per bed per day rate equal to the indirect 37441  
guarantee percentage of actual net patient revenue for all nursing 37442  
homes and hospital long-term care units for that fiscal year; 37443

(2) Refund the difference between the amount of the franchise 37444  
permit fee assessed for that fiscal year under divisions (A) and 37445  
(B) of this section and the amount recalculated under division 37446  
(C)(1) of this section as a credit against the assessments imposed 37447  
under divisions (A) and (B) of this section for the subsequent 37448  
fiscal year. 37449

(D) If the United States centers for medicare and medicaid 37450

services determines that the franchise permit fee established by 37451  
sections 3721.50 to 3721.58 of the Revised Code is an 37452  
impermissible health care-related tax under section 1903(w) of the 37453  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 37454  
amended, take all necessary actions to cease implementation of 37455  
sections 3721.50 to 3721.58 of the Revised Code in accordance with 37456  
rules adopted under section 3721.58 of the Revised Code. 37457

**Sec. 3723.06.** (A) The director of health shall license radon 37458  
testers, mitigation specialists, and mitigation contractors. Each 37459  
applicant for a license shall submit a completed application to 37460  
the director on a form the director shall prescribe and furnish. 37461

(B) In accordance with rules adopted ~~by the public health~~ 37462  
~~council~~ under section 3723.09 of the Revised Code, the director 37463  
shall issue the appropriate license to each applicant that pays 37464  
the license fee prescribed by the ~~council~~ director, meets the 37465  
licensing criteria established by the ~~council~~ director, and 37466  
complies with any other licensing and training requirements 37467  
established by the ~~council~~ director. An individual, business 37468  
entity, or government entity may hold more than one license issued 37469  
under this section, but a separate application is required for 37470  
each license. 37471

(C) Notwithstanding division (B) of this section, the 37472  
director shall issue a radon mitigation contractor license on 37473  
request to the holder of a radon mitigation specialist license if 37474  
the license holder is the owner or chief stockholder of a business 37475  
entity for which ~~he~~ the license holder is the only individual who 37476  
will work as a radon mitigation specialist. The licensing criteria 37477  
and any other licensing and training requirements the individual 37478  
was required to meet to qualify for the radon mitigation 37479  
specialist license are hereby deemed to satisfy any and all 37480  
criteria and requirements for a radon mitigation contractor 37481

license. A license issued under this division shall expire at the 37482  
same time as the individual's radon mitigation specialist license. 37483  
No license fee shall be imposed for a license issued under this 37484  
division. 37485

(D) A license issued under this section expires biennially 37486  
and may be renewed by the director in accordance with criteria and 37487  
procedures established ~~by the public health council~~ in rules 37488  
adopted under section 3723.09 of the Revised Code and on payment 37489  
of the license renewal fee prescribed ~~by the council~~ in those 37490  
rules. 37491

(E) In accordance with Chapter 119. of the Revised Code, the 37492  
director may do either of the following: 37493

(1) Refuse to issue a license to an individual, business 37494  
entity, or government entity that does not meet the requirements 37495  
of this chapter or the rules adopted under it or has been in 37496  
violation of those requirements; 37497

(2) Suspend, revoke, or refuse to renew the license of an 37498  
individual, business entity, or government entity that is or has 37499  
been in violation of the requirements of this chapter or the rules 37500  
adopted under it. 37501

**Sec. 3723.07.** The director of health shall approve all of the 37502  
following: 37503

(A) Licensure training courses for radon testers and 37504  
mitigation specialists; 37505

(B) Training courses for employees of mitigation contractors; 37506

(C) Radon laboratories. 37507

Each applicant for approval shall submit a completed 37508  
application to the director on a form the director shall prescribe 37509  
and furnish. 37510

In accordance with rules adopted by the ~~public health council~~ 37511  
under section 3723.09 of the Revised Code, the director shall 37512  
issue the appropriate approval to each applicant that pays the 37513  
approval fee prescribed by the ~~council~~ director and meets the 37514  
criteria for approval established by the ~~council~~ director. 37515

In accordance with Chapter 119. of the Revised Code, the 37516  
director may refuse to issue an approval and may revoke or suspend 37517  
an approval issued under this section if the operator of the 37518  
course or laboratory fails to meet the criteria established by the 37519  
~~public health council~~ director. 37520

**Sec. 3723.09.** (A) To protect the health of individuals 37521  
inhabiting, occupying, or frequenting buildings, the ~~public~~ 37522  
director of health ~~council~~ shall adopt rules to implement the 37523  
requirements of this chapter. All rules adopted under this section 37524  
shall be adopted in accordance with Chapter 119. of the Revised 37525  
Code. 37526

(B) The ~~public health council~~ director shall adopt rules 37527  
establishing criteria and procedures ~~to be followed by the~~ 37528  
~~director of health in~~ for issuing and renewing licenses under 37529  
section 3723.06 of the Revised Code to radon testers, mitigation 37530  
specialists, and mitigation contractors. The rules may require 37531  
that all applicants for licensure as a radon tester or mitigation 37532  
specialist pass an examination. If an examination is required, the 37533  
rules may require applicants to pass an examination conducted by 37534  
the department or an appropriate examination conducted by the 37535  
United States environmental protection agency. 37536

(C) The ~~public health council~~ director shall adopt rules 37537  
establishing criteria and procedures ~~to be followed by the~~ 37538  
~~director of health in~~ for approving training courses under section 37539  
3723.07 of the Revised Code. The rules may require that 37540  
participants in training courses pass an examination conducted by 37541

the operator of the course and may require that the examinations 37542  
be approved by the director ~~of health~~. 37543

(D) The ~~public health council~~ director shall adopt rules 37544  
establishing criteria and procedures ~~to be followed by the~~ 37545  
~~director of health in~~ for approving radon laboratories under 37546  
section 3723.07 of the Revised Code. 37547

(E) The ~~public health council~~ director shall adopt rules 37548  
establishing reasonable fees for licenses, license renewals, radon 37549  
laboratory approvals, and training course approvals. 37550

(F) The ~~public health council~~ director shall adopt rules 37551  
establishing standards to be followed by licensed radon testers, 37552  
mitigation specialists, and mitigation contractors for the 37553  
prevention of hazards to the public health, including standards 37554  
for worker protection, record keeping, and training of employees 37555  
of licensed radon mitigation contractors. 37556

(G) The ~~public health council~~ director shall adopt rules 37557  
establishing procedures to be followed by any individual, business 37558  
entity, or government entity licensed by another state to practice 37559  
as a radon tester, mitigation specialist, or mitigation contractor 37560  
in providing notice to the director of health prior to commencing 37561  
practice in this state pursuant to section 3723.03 of the Revised 37562  
Code. 37563

(H) The ~~public health council~~ director may adopt rules that 37564  
require licensed radon testers and mitigation specialists to 37565  
report to the director ~~of health~~, by street address, radon test 37566  
results that indicate the presence of radon at a level considered 37567  
to be dangerous as determined by the ~~council~~ director. The rules 37568  
may require the reporting of screening measurements, follow-up 37569  
measurements, post-mitigation measurements, and, if it is known 37570  
that radon mitigation has been performed, the methods of 37571  
mitigation that were used. Any information required to be reported 37572

to the director under these rules is not a public record under 37573  
section 149.43 of the Revised Code, and shall not be released 37574  
except in aggregate statistical form. 37575

**Sec. 3725.02.** (A) No person other than a hospital shall 37576  
collect plasma, regardless of the use for which the plasma is 37577  
intended, except at a plasmapheresis center holding a current, 37578  
valid certificate of approval issued by the director of health. 37579

Whoever violates this division is guilty of a misdemeanor of 37580  
the fourth degree. 37581

(B) The ~~public health council~~ director shall adopt such rules 37582  
as are necessary to carry out this chapter. 37583

**Sec. 3727.01.** (A) As used in this section, "health 37584  
maintenance organization" means a public or private organization 37585  
organized under the law of any state that is qualified under 37586  
section 1310(d) of Title XIII of the "Public Health Service Act," 37587  
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 37588  
following: 37589

(1) Provides or otherwise makes available to enrolled 37590  
participants health care services including at least the following 37591  
basic health care services: usual physician services, 37592  
hospitalization, laboratory, x-ray, emergency and preventive 37593  
service, and out-of-area coverage; 37594

(2) Is compensated, except for copayments, for the provision 37595  
of basic health care services to enrolled participants by a 37596  
payment that is paid on a periodic basis without regard to the 37597  
date the health care services are provided and that is fixed 37598  
without regard to the frequency, extent, or kind of health service 37599  
actually provided; 37600

(3) Provides physician services primarily in either of the 37601  
following ways: 37602

(a) Directly through physicians who are either employees or partners of the organization; 37603  
37604

(b) Through arrangements with individual physicians or one or more groups of physicians organized on a group-practice or individual-practice basis. 37605  
37606  
37607

(B) As used in this chapter: 37608

(1) "~~Children's hospital~~" ~~has the same meaning as in section 3702.51 of the Revised Code~~ means any of the following: 37609  
37610

(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; 37611  
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(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; 37616  
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(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 (B)(1)(a) of this section. 37623  
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(2) "Hospital" means an institution classified as a hospital under section 3701.07 of the Revised Code in which are provided to inpatients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than twenty-four hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under Chapter 3721. of the Revised Code, a health care 37627  
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facility operated by the department of mental health or the 37634  
department of developmental disabilities, a health maintenance 37635  
organization that does not operate a hospital, the office of any 37636  
private licensed health care professional, whether organized for 37637  
individual or group practice, or a clinic that provides ambulatory 37638  
patient services and where patients are not regularly admitted as 37639  
inpatients. "Hospital" also does not include an institution for 37640  
the sick that is operated exclusively for patients who use 37641  
spiritual means for healing and for whom the acceptance of medical 37642  
care is inconsistent with their religious beliefs, accredited by a 37643  
national accrediting organization, exempt from federal income 37644  
taxation under section 501 of the Internal Revenue Code of 1986, 37645  
100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing 37646  
twenty-four hour nursing care pursuant to the exemption in 37647  
division (E) of section 4723.32 of the Revised Code from the 37648  
licensing requirements of Chapter 4723. of the Revised Code. 37649

(3) "Joint commission" means the commission formerly known as 37650  
the joint commission on accreditation of healthcare organizations 37651  
or the joint commission on accreditation of hospitals. 37652

**Sec. 3727.42.** (A) Every hospital shall compile and make 37653  
available for inspection by the public a price information list 37654  
containing the information specified in division (B) of this 37655  
section and shall periodically update the list to maintain current 37656  
information. The price information list shall be compiled and made 37657  
available in a format that complies with the electronic 37658  
transaction standards and code sets adopted by the United States 37659  
secretary of health and human services under 42 U.S.C. 1320d-2. 37660

(B) Each price information list required by division (A) of 37661  
this section shall contain all of the following information: 37662

(1) The usual and customary room and board charges for each 37663  
level of care within the hospital, including but not limited to 37664

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| private rooms, semiprivate rooms, other multiple patient rooms,       | 37665 |
| and intensive care and other specialty units;                         | 37666 |
| (2) Rates charged for nursing care, if the hospital charges           | 37667 |
| separately for nursing care;  | 37668 |
| (3) The usual and customary charges, stated separately for            | 37669 |
| inpatients and outpatients if different charges are imposed, for      | 37670 |
| any of the following services provided by the hospital:               | 37671 |
| (a) The thirty most common x-ray and radiological procedures;         | 37672 |
| (b) The thirty most common laboratory procedures;                     | 37673 |
| (c) Emergency room services;  | 37674 |
| (d) Operating room services;  | 37675 |
| (e) Delivery room services;   | 37676 |
| (f) Physical, occupational, and pulmonary therapy services;           | 37677 |
| (g) Any other services designated as high volume services by          | 37678 |
| a rule which shall be adopted by the <u>public director of health</u> | 37679 |
| <u>council</u> .  | 37680 |
| (4) The hospital's billing policies, including whether the            | 37681 |
| hospital charges interest on an amount not paid in full by any        | 37682 |
| person or government entity and the interest rate charged;            | 37683 |
| (5) Whether or not the charges listed include fees for the            | 37684 |
| services of hospital-based anesthesiologists, radiologists,           | 37685 |
| pathologists, and emergency room physicians and, if a charge does     | 37686 |
| not include such fees, how such fee information can be obtained.      | 37687 |
| (C) Every hospital shall do all of the following with the             | 37688 |
| price information list required by this section:                      | 37689 |
| (1) At the time of admission, or as soon as practical                 | 37690 |
| thereafter, inform each patient of the availability of the list       | 37691 |
| and on request provide the patient with a free copy of the list;      | 37692 |
| (2) On request, provide a paper copy of the list to any               | 37693 |

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| person or governmental agency, subject to payment of a reasonable fee for copying and processing;   | 37694<br>37695  |
| (3) Make the list available free of charge on the hospital's internet web site.   | 37696<br>37697  |
| <b>Sec. 3729.01.</b> As used in this chapter:   | 37698   |
| (A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.   | 37699<br>37700<br>37701   |
| (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.   | 37702<br>37703<br>37704<br>37705  |
| (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 combined park-camp if a combination of five or more recreational vehicles or portable camping units are placed on it for recreation, vacation, or business purposes. | 37706<br>37707<br>37708<br>37709<br>37710<br>37711<br>37712<br>37713<br>37714 |
| "Combined park-camp" does not include any tract of land used solely as a temporary park-camp or solely as a manufactured home park.   | 37715<br>37716<br>37717   |
| (D) "Dependent recreational vehicle" means a recreational vehicle other than a self-contained recreational vehicle.<br>"Dependent recreational vehicle" includes a park model.  | 37718<br>37719<br>37720   |
| (E) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or  | 37721<br>37722<br>37723   |

drilling operations, or storage of equipment or materials, and the 37724  
construction, expansion, or substantial alteration of a 37725  
recreational vehicle park, recreation camp, or combined park-camp, 37726  
for which plan review is required under division (A) of section 37727  
3729.03 of the Revised Code. "Development" does not include the 37728  
building, construction, erection, or manufacture of any building 37729  
to which section 3781.06 of the Revised Code is applicable. 37730

(F) "Director of health" means the director of health or the 37731  
director's authorized representative. 37732

(G) "Flood" or "flooding" means either of the following: 37733

(1) A general and temporary condition of partial or complete 37734  
inundation of normally dry land areas from any of the following: 37735

(a) The overflow of inland or tidal waters; 37736

(b) The unusual and rapid accumulation or runoff of surface 37737  
waters from any source; 37738

(c) Mudslides that are proximately caused by flooding as 37739  
defined in division (G)(1)(b) of this section and that are akin to 37740  
a river of liquid and flowing mud on the surface of normally dry 37741  
land areas, as when earth is carried by a current of water and 37742  
deposited along the path of the current. 37743

(2) The collapse or subsidence of land along the shore of a 37744  
lake or other body of water as a result of erosion or undermining 37745  
that is caused by waves or currents of water exceeding anticipated 37746  
cyclical levels or that is suddenly caused by an unusually high 37747  
water level in a natural body of water, and that is accompanied by 37748  
a severe storm, by an unanticipated force of nature, such as a 37749  
flash flood, by an abnormal tidal surge, or by some similarly 37750  
unusual and unforeseeable event, that results in flooding as 37751  
defined in division (G)(1)(a) of this section. 37752

(H) "Flood plain" means the area adjoining any river, stream, 37753

watercourse, or lake that has been or may be covered by flood 37754  
water. 37755

(I) "Licensor" means either the board of health of a city or 37756  
general health district, or the authority having the duties of a 37757  
board of health in any city as authorized by section 3709.05 of 37758  
the Revised Code, or the director of health, when required under 37759  
division (B) of section 3729.06 of the Revised Code. "Licensor" 37760  
also means an authorized representative of any of those entities 37761  
or of the director. 37762

(J) "Manufactured home park" has the same meaning as in 37763  
section ~~3733.01~~ 4781.01 of the Revised Code. 37764

(K) "One-hundred-year flood" means a flood having a one per 37765  
cent chance of being equaled or exceeded in any given year. 37766

(L) "One-hundred-year flood plain" means that portion of a 37767  
flood plain inundated by a one-hundred-year flood. 37768

(M) "Operator" means the person who has responsible charge of 37769  
a recreational vehicle park, recreation camp, combined park-camp, 37770  
or temporary park-camp and who is licensed under this chapter. 37771

(N) "Park model" means a recreational vehicle that meets the 37772  
American national standard institute standard A119.5(1988) for 37773  
park trailers, is built on a single chassis, has a gross trailer 37774  
area of not more than four hundred square feet when set up, is 37775  
designed for seasonal or temporary living quarters, and may be 37776  
connected to utilities necessary for operation of installed 37777  
features and appliances. 37778

(O) "Person" has the same meaning as in section 1.59 of the 37779  
Revised Code and also includes this state, any political 37780  
subdivision of this state, and any other state or local body of 37781  
this state. 37782

(P) "Portable camping units" means dependent recreational 37783

vehicles, tents, portable sleeping equipment, and similar camping 37784  
equipment used for travel, recreation, vacation, or business 37785  
purposes. 37786

(Q) "Recreation camp" means any tract of land upon which five 37787  
or more portable camping units are placed and includes any 37788  
roadway, building, structure, vehicle, or enclosure used or 37789  
intended for use as a part of the facilities of the camp. A tract 37790  
of land that is subdivided for lease or other contract of the 37791  
individual lots is a recreation camp if five or more portable 37792  
camping units are placed on it for recreation, vacation, or 37793  
business purposes. 37794

"Recreation camp" does not include any tract of land used 37795  
solely for the storage or display for sale of dependent 37796  
recreational vehicles, solely as a temporary park-camp, or solely 37797  
as a manufactured home park. 37798

(R) "Recreational vehicle" has the same meaning as in section 37799  
4501.01 of the Revised Code. 37800

(S) "Recreational vehicle park" means any tract of land used 37801  
for parking five or more self-contained recreational vehicles and 37802  
includes any roadway, building, structure, vehicle, or enclosure 37803  
used or intended for use as part of the park facilities and any 37804  
tract of land that is subdivided for lease or other contract of 37805  
the individual lots for the express or implied purpose of placing 37806  
self-contained recreational vehicles for recreation, vacation, or 37807  
business purposes. 37808

"Recreational vehicle park" does not include any tract of 37809  
land used solely for the storage or display for sale of 37810  
self-contained recreational vehicles, solely as a temporary 37811  
park-camp, or solely as a manufactured home park. 37812

(T) "Self-contained recreational vehicle" means a 37813  
recreational vehicle that can operate independent of connections 37814

to sewer and water and has plumbing fixtures or appliances all of 37815  
which are connected to sewage holding tanks located within the 37816  
vehicle. "Self-contained recreational vehicle" includes a park 37817  
model. 37818

(U) "Substantially alter" means a change in the layout or 37819  
design of a recreational vehicle park, recreation camp, combined 37820  
park-camp, or temporary park-camp, including, without limitation, 37821  
the movement of utilities or changes in established streets, lots, 37822  
or sites or in other facilities. 37823

(V) "Temporary park-camp" means any tract of land used for a 37824  
period not to exceed a total of twenty-one days per calendar year 37825  
for the purpose of parking five or more recreational vehicles, 37826  
dependent recreational vehicles, or portable camping units, or any 37827  
combination thereof, for one or more periods of time that do not 37828  
exceed seven consecutive days or parts thereof. 37829

(W) "Tract" means a contiguous area of land that consists of 37830  
one or more parcels, lots, or sites that have been separately 37831  
surveyed regardless of whether the individual parcels, lots, or 37832  
sites have been recorded and regardless of whether the one or more 37833  
parcels, lots, or sites are under common or different ownership. 37834

**Sec. 3729.02.** (A) The ~~public~~ director of health council, 37835  
subject to Chapter 119. of the Revised Code, shall adopt rules of 37836  
uniform application throughout the state governing the review of 37837  
plans and issuance of licenses for and the location, layout, 37838  
construction, drainage, sanitation, safety, and operation of 37839  
recreational vehicle parks, recreation camps, and combined 37840  
park-camps. The rules shall not apply to the construction, 37841  
erection, or manufacture of any building to which section 3781.06 37842  
of the Revised Code is applicable. 37843

(B) The ~~public health council~~ director, subject to Chapter 37844  
119. of the Revised Code, shall adopt rules of uniform application 37845

throughout the state governing the review of plans and issuance of 37846  
licenses for and the layout, sanitation, safety, and operation of 37847  
temporary park-camps. The rules shall not apply to the 37848  
construction, erection, or manufacture of any building to which 37849  
section 3781.06 of the Revised Code is applicable. 37850

**Sec. 3729.03.** (A) No person shall cause development to occur 37851  
within any portion of a recreational vehicle park, recreation 37852  
camp, or combined park-camp until the plans for the development 37853  
have been submitted to and reviewed and approved by the director 37854  
of health. This division does not require that plans be submitted 37855  
to the director for approval for the replacement of recreational 37856  
vehicles or portable camping units on previously approved sites in 37857  
a recreational vehicle park, recreation camp, or combined 37858  
park-camp when no development is to occur in connection with the 37859  
replacement. Within thirty days after receipt of the plans, all 37860  
supporting documents and materials required to complete the 37861  
review, and the applicable plan review fee established under 37862  
division (D) of this section, the director shall approve or 37863  
disapprove the plans. 37864

(B) Any person aggrieved by the director's disapproval of a 37865  
set of plans under division (A) of this section may request a 37866  
hearing on the matter within thirty days after receipt of the 37867  
director's notice of the disapproval. The hearing shall be held in 37868  
accordance with Chapter 119. of the Revised Code. Thereafter, the 37869  
disapproval may be appealed in the manner provided in section 37870  
119.12 of the Revised Code. 37871

(C) The director shall establish a system by which 37872  
development occurring within a recreational vehicle park, 37873  
recreation camp, or combined park-camp is inspected or verified in 37874  
accordance with rules adopted under division (A) of section 37875  
3729.02 of the Revised Code to ensure that the development 37876

complies with the plans approved under division (A) of this section. 37877  
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(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. 37879  
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(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. 37882  
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(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. 37892  
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**Sec. 3729.04.** (A) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in a municipal corporation unless the person first obtains a permit therefor from the municipal corporation in accordance with the flood plain management ordinance of the municipal corporation. 37897  
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(B) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in an unincorporated area unless the 37904  
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person first obtains a permit therefor from the board of county commissioners of the county in which the development is to occur in accordance with the flood plain management resolution of the county adopted under section 307.37 of the Revised Code.

(C) If development for which a permit is required under division (A) or (B) of this section is to occur on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the recreational vehicle or portable camping unit and the operator of the recreational vehicle park, recreation camp, or combined park-camp shall jointly obtain the permit. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.

If development for which a permit is required under division (A) or (B) of this section is to occur within a temporary park-camp on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the temporary park-camp shall obtain the permit.

(D) Fees established by a municipal corporation or county for the issuance of permits under division (A) or (B) of this section are not subject to regulation by the ~~public~~ director of health council.

**Sec. 3729.07.** The licensor of a recreational vehicle park, recreation camp, or combined park-camp may charge a fee for an annual license to operate such a park, camp, or park-camp. In the case of a temporary park-camp, the licensor may charge a fee for a license to operate the temporary park-camp for the period specified in division (A) of section 3729.05 of the Revised Code. The fees for both types of licenses shall be determined in accordance with section 3709.09 of the Revised Code and shall include the cost of licensing and all inspections.

Except for the fee for a temporary park-camp license, the fee 37939  
also shall include any additional amount determined by rule of the 37940  
~~public director of health council~~, which shall be collected and 37941  
transmitted by the board of health to the director ~~of health~~ 37942  
pursuant to section 3709.092 of the Revised Code and used only for 37943  
the purpose of administering and enforcing this chapter and rules 37944  
adopted under it. The portion of any fee retained by the board of 37945  
health shall be paid into a special fund and used only for the 37946  
purpose of administering and enforcing this chapter and rules 37947  
adopted under it. 37948

**Sec. 3729.08.** The licenser of the health district in which a 37949  
recreational vehicle park, recreation camp, combined park-camp, or 37950  
temporary park-camp is or is to be located, in accordance with 37951  
Chapter 119. of the Revised Code, may refuse to grant, may 37952  
suspend, or may revoke any license granted to any person for 37953  
failure to comply with this chapter or with any rule adopted by 37954  
the ~~public director of health council~~ under section 3729.02 of the 37955  
Revised Code. 37956

**Sec. 3730.10.** (A) ~~Not later than ninety days after the~~ 37957  
~~effective date of this section, the public~~ The director of health 37958  
~~council~~ shall adopt rules in accordance with Chapter 119. of the 37959  
Revised Code as necessary for the implementation and enforcement 37960  
of this chapter. The rules shall include all of the following: 37961

(1) Safety and sanitation standards and procedures to be 37962  
followed to prevent the transmission of infectious diseases during 37963  
the performance of tattooing and body piercing procedures; 37964

(2) Standards and procedures to be followed for appropriate 37965  
disinfection and sterilization of all invasive equipment or parts 37966  
of equipment used in tattooing procedures, body piercing 37967  
procedures, and ear piercing procedures performed with an ear 37968

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| piercing gun;   | 37969  |
| (3) Procedures for suspending and revoking approvals under section 3730.05 of the Revised Code.   | 37970<br>37971   |
| (B) The rules adopted under division (A)(1) of this section shall establish universal blood and body fluid precautions to be used by any individual who performs tattooing or body piercing procedures. The precautions shall include all of the following:   | 37972<br>37973<br>37974<br>37975   |
| (1) The appropriate use of hand washing;  | 37976  |
| (2) The handling and disposal of all needles and other sharp instruments used in tattooing or body piercing procedures;   | 37977<br>37978   |
| (3) The wearing and disposal of gloves and other protective garments and devices.   | 37979<br>37980   |
| (C) The rules adopted under division (A) of this section may include standards and procedures to be followed by a business that offers tattooing or body piercing services to ensure that the individuals who perform tattooing or body piercing procedures for the business are adequately trained to perform the procedures properly.   | 37981<br>37982<br>37983<br>37984<br>37985<br>37986                                     |
| <b>Sec. 3733.41.</b> As used in sections 3733.41 to 3733.49 of the Revised Code:  | 37987<br>37988   |
| (A) "Agricultural labor camp" means one or more buildings or structures, trailers, tents, or vehicles, together with any land appertaining thereto, established, operated, or used as temporary living quarters for two or more families or five or more persons intending to engage in or engaged in agriculture or related food processing, whether occupancy is by rent, lease, or mutual agreement. "Agricultural labor camp" does not include a hotel or motel, or a manufactured home park regulated pursuant to <del>section 3733.01</del> <u>sections 4781.26 to 4781.52</u> of the Revised Code, and rules adopted thereunder. | 37989<br>37990<br>37991<br>37992<br>37993<br>37994<br>37995<br>37996<br>37997<br>37998 |

(B) "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 in any city as authorized by section 3709.05 of the Revised Code or an authorized representative of the board of health.

(C) "Director" means the director of ~~the department of~~ health or the authorized representative of the director of health.

(D) "Licensor" means the director of health.

(E) "Person" means the state, any political subdivision, public or private corporation, partnership, association, trust, individual, or other entity.

~~(F) "Public health council" means the public health council as created by section 3701.33 of the Revised Code.~~

**Sec. 3733.42.** The ~~public director of health council~~, subject to sections 119.01 to 119.13 of the Revised Code, shall adopt rules having a uniform application throughout the state, governing the issuance of licenses, location, layout, construction, approval of plans, sanitation, safety, operation, use, and maintenance of agricultural labor camps. The rules shall establish minimum standards of habitability with which a licensee shall comply in operating an agricultural labor camp. The rules shall establish, beyond minimum standards of habitability, additional standards of habitability for those camps and shall establish priorities for those additional standards with which a licensee may ~~voluntary~~ voluntarily comply.

In addition to meeting the requirements of section 119.03 of the Revised Code, the director of health shall mail a notice of the date, time, and place of any hearing on the adoption, amendment, or rescission of such rules and the full text of the proposed rule, amendment, or rule to be rescinded, at least thirty

days prior to the hearing date, to all persons currently 38029  
authorized or licensed to operate camps by the department of 38030  
health, or authorized or licensed to operate camps in the previous 38031  
calendar year. 38032

**Sec. 3734.01.** As used in this chapter: 38033

(A) "Board of health" means the board of health of a city or 38034  
general health district or the authority having the duties of a 38035  
board of health in any city as authorized by section 3709.05 of 38036  
the Revised Code. 38037

(B) "Director" means the director of environmental 38038  
protection. 38039

(C) "Health district" means a city or general health district 38040  
as created by or under authority of Chapter 3709. of the Revised 38041  
Code. 38042

(D) "Agency" means the environmental protection agency. 38043

(E) "Solid wastes" means such unwanted residual solid or 38044  
semisolid material as results from industrial, commercial, 38045  
agricultural, and community operations, excluding earth or 38046  
material from construction, mining, or demolition operations, or 38047  
other waste materials of the type that normally would be included 38048  
in demolition debris, nontoxic fly ash and bottom ash, including 38049  
at least ash that results from the combustion of coal and ash that 38050  
results from the combustion of coal in combination with scrap 38051  
tires where scrap tires comprise not more than fifty per cent of 38052  
heat input in any month, spent nontoxic foundry sand, and slag and 38053  
other substances that are not harmful or inimical to public 38054  
health, and includes, but is not limited to, garbage, scrap tires, 38055  
combustible and noncombustible material, street dirt, and debris. 38056  
"Solid wastes" does not include any material that is an infectious 38057  
waste or a hazardous waste. 38058

(F) "Disposal" means the discharge, deposit, injection, 38059  
dumping, spilling, leaking, emitting, or placing of any solid 38060  
wastes or hazardous waste into or on any land or ground or surface 38061  
water or into the air, except if the disposition or placement 38062  
constitutes storage or treatment or, if the solid wastes consist 38063  
of scrap tires, the disposition or placement constitutes a 38064  
beneficial use or occurs at a scrap tire recovery facility 38065  
licensed under section 3734.81 of the Revised Code. 38066

(G) "Person" includes the state, any political subdivision 38067  
and other state or local body, the United States and any agency or 38068  
instrumentality thereof, and any legal entity defined as a person 38069  
under section 1.59 of the Revised Code. 38070

(H) "Open burning" means the burning of solid wastes in an 38071  
open area or burning of solid wastes in a type of chamber or 38072  
vessel that is not approved or authorized in rules adopted by the 38073  
director under section 3734.02 of the Revised Code or, if the 38074  
solid wastes consist of scrap tires, in rules adopted under 38075  
division (V) of this section or section 3734.73 of the Revised 38076  
Code, or the burning of treated or untreated infectious wastes in 38077  
an open area or in a type of chamber or vessel that is not 38078  
approved in rules adopted by the director under section 3734.021 38079  
of the Revised Code. 38080

(I) "Open dumping" means the depositing of solid wastes into 38081  
a body or stream of water or onto the surface of the ground at a 38082  
site that is not licensed as a solid waste facility under section 38083  
3734.05 of the Revised Code or, if the solid wastes consist of 38084  
scrap tires, as a scrap tire collection, storage, monocell, 38085  
monofill, or recovery facility under section 3734.81 of the 38086  
Revised Code; the depositing of solid wastes that consist of scrap 38087  
tires onto the surface of the ground at a site or in a manner not 38088  
specifically identified in divisions (C)(2) to (5), (7), or (10) 38089  
of section 3734.85 of the Revised Code; the depositing of 38090

untreated infectious wastes into a body or stream of water or onto 38091  
the surface of the ground; or the depositing of treated infectious 38092  
wastes into a body or stream of water or onto the surface of the 38093  
ground at a site that is not licensed as a solid waste facility 38094  
under section 3734.05 of the Revised Code. 38095

(J) "Hazardous waste" means any waste or combination of 38096  
wastes in solid, liquid, semisolid, or contained gaseous form that 38097  
in the determination of the director, because of its quantity, 38098  
concentration, or physical or chemical characteristics, may do 38099  
either of the following: 38100

(1) Cause or significantly contribute to an increase in 38101  
mortality or an increase in serious irreversible or incapacitating 38102  
reversible illness; 38103

(2) Pose a substantial present or potential hazard to human 38104  
health or safety or to the environment when improperly stored, 38105  
treated, transported, disposed of, or otherwise managed. 38106

"Hazardous waste" includes any substance identified by 38107  
regulation as hazardous waste under the "Resource Conservation and 38108  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 38109  
amended, and does not include any substance that is subject to the 38110  
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 38111  
amended. 38112

(K) "Treat" or "treatment," when used in connection with 38113  
hazardous waste, means any method, technique, or process designed 38114  
to change the physical, chemical, or biological characteristics or 38115  
composition of any hazardous waste; to neutralize the waste; to 38116  
recover energy or material resources from the waste; to render the 38117  
waste nonhazardous or less hazardous, safer to transport, store, 38118  
or dispose of, or amenable for recovery, storage, further 38119  
treatment, or disposal; or to reduce the volume of the waste. When 38120  
used in connection with infectious wastes, "treat" or "treatment" 38121

means any method, technique, or process designed to render the 38122  
wastes noninfectious, including, without limitation, steam 38123  
sterilization and incineration, or, in the instance of wastes 38124  
identified in division (R)(7) of this section, to substantially 38125  
reduce or eliminate the potential for the wastes to cause 38126  
lacerations or puncture wounds. 38127

(L) "Manifest" means the form used for identifying the 38128  
quantity, composition, origin, routing, and destination of 38129  
hazardous waste during its transportation from the point of 38130  
generation to the point of disposal, treatment, or storage. 38131

(M) "Storage," when used in connection with hazardous waste, 38132  
means the holding of hazardous waste for a temporary period in 38133  
such a manner that it remains retrievable and substantially 38134  
unchanged physically and chemically and, at the end of the period, 38135  
is treated; disposed of; stored elsewhere; or reused, recycled, or 38136  
reclaimed in a beneficial manner. When used in connection with 38137  
solid wastes that consist of scrap tires, "storage" means the 38138  
holding of scrap tires for a temporary period in such a manner 38139  
that they remain retrievable and, at the end of that period, are 38140  
beneficially used; stored elsewhere; placed in a scrap tire 38141  
monocell or monofill facility licensed under section 3734.81 of 38142  
the Revised Code; processed at a scrap tire recovery facility 38143  
licensed under that section or a solid waste incineration or 38144  
energy recovery facility subject to regulation under this chapter; 38145  
or transported to a scrap tire monocell, monofill, or recovery 38146  
facility, any other solid waste facility authorized to dispose of 38147  
scrap tires, or a facility that will beneficially use the scrap 38148  
tires, that is located in another state and is operating in 38149  
compliance with the laws of the state in which the facility is 38150  
located. 38151

(N) "Facility" means any site, location, tract of land, 38152  
installation, or building used for incineration, composting, 38153

sanitary landfilling, or other methods of disposal of solid wastes 38154  
or, if the solid wastes consist of scrap tires, for the 38155  
collection, storage, or processing of the solid wastes; for the 38156  
transfer of solid wastes; for the treatment of infectious wastes; 38157  
or for the storage, treatment, or disposal of hazardous waste. 38158

(O) "Closure" means the time at which a hazardous waste 38159  
facility will no longer accept hazardous waste for treatment, 38160  
storage, or disposal, the time at which a solid waste facility 38161  
will no longer accept solid wastes for transfer or disposal or, if 38162  
the solid wastes consist of scrap tires, for storage or 38163  
processing, or the effective date of an order revoking the permit 38164  
for a hazardous waste facility or the registration certificate, 38165  
permit, or license for a solid waste facility, as applicable. 38166  
"Closure" includes measures performed to protect public health or 38167  
safety, to prevent air or water pollution, or to make the facility 38168  
suitable for other uses, if any, including, but not limited to, 38169  
the removal of processing residues resulting from solid wastes 38170  
that consist of scrap tires; the establishment and maintenance of 38171  
a suitable cover of soil and vegetation over cells in which 38172  
hazardous waste or solid wastes are buried; minimization of 38173  
erosion, the infiltration of surface water into such cells, the 38174  
production of leachate, and the accumulation and runoff of 38175  
contaminated surface water; the final construction of facilities 38176  
for the collection and treatment of leachate and contaminated 38177  
surface water runoff, except as otherwise provided in this 38178  
division; the final construction of air and water quality 38179  
monitoring facilities, except as otherwise provided in this 38180  
division; the final construction of methane gas extraction and 38181  
treatment systems; or the removal and proper disposal of hazardous 38182  
waste or solid wastes from a facility when necessary to protect 38183  
public health or safety or to abate or prevent air or water 38184  
pollution. With regard to a solid waste facility that is a scrap 38185  
tire facility, "closure" includes the final construction of 38186

facilities for the collection and treatment of leachate and 38187  
contaminated surface water runoff and the final construction of 38188  
air and water quality monitoring facilities only if those actions 38189  
are determined to be necessary. 38190

(P) "Premises" means either of the following: 38191

(1) Geographically contiguous property owned by a generator; 38192

(2) Noncontiguous property that is owned by a generator and 38193  
connected by a right-of-way that the generator controls and to 38194  
which the public does not have access. Two or more pieces of 38195  
property that are geographically contiguous and divided by public 38196  
or private right-of-way or rights-of-way are a single premises. 38197

(Q) "Post-closure" means that period of time following 38198  
closure during which a hazardous waste facility is required to be 38199  
monitored and maintained under this chapter and rules adopted 38200  
under it, including, without limitation, operation and maintenance 38201  
of methane gas extraction and treatment systems, or the period of 38202  
time after closure during which a scrap tire monocell or monofill 38203  
facility licensed under section 3734.81 of the Revised Code is 38204  
required to be monitored and maintained under this chapter and 38205  
rules adopted under it. 38206

(R) "Infectious wastes" includes all of the following 38207  
substances or categories of substances: 38208

(1) Cultures and stocks of infectious agents and associated 38209  
biologicals, including, without limitation, specimen cultures, 38210  
cultures and stocks of infectious agents, wastes from production 38211  
of biologicals, and discarded live and attenuated vaccines; 38212

(2) Laboratory wastes that were, or are likely to have been, 38213  
in contact with infectious agents that may present a substantial 38214  
threat to public health if improperly managed; 38215

(3) Pathological wastes, including, without limitation, human 38216

and animal tissues, organs, and body parts, and body fluids and 38217  
excreta that are contaminated with or are likely to be 38218  
contaminated with infectious agents, removed or obtained during 38219  
surgery or autopsy or for diagnostic evaluation, provided that, 38220  
with regard to pathological wastes from animals, the animals have 38221  
or are likely to have been exposed to a zoonotic or infectious 38222  
agent; 38223

(4) Waste materials from the rooms of humans, or the 38224  
enclosures of animals, that have been isolated because of 38225  
diagnosed communicable disease that are likely to transmit 38226  
infectious agents. Such waste materials from the rooms of humans 38227  
do not include any wastes of patients who have been placed on 38228  
blood and body fluid precautions under the universal precaution 38229  
system established by the centers for disease control in the 38230  
public health service of the United States department of health 38231  
and human services, except to the extent specific wastes generated 38232  
under the universal precautions system have been identified as 38233  
infectious wastes by rules adopted under division (R)(8) of this 38234  
section. 38235

(5) Human and animal blood specimens and blood products that 38236  
are being disposed of, provided that, with regard to blood 38237  
specimens and blood products from animals, the animals were or are 38238  
likely to have been exposed to a zoonotic or infectious agent. 38239  
"Blood products" does not include patient care waste such as 38240  
bandages or disposable gowns that are lightly soiled with blood or 38241  
other body fluids unless those wastes are soiled to the extent 38242  
that the generator of the wastes determines that they should be 38243  
managed as infectious wastes. 38244

(6) Contaminated carcasses, body parts, and bedding of 38245  
animals that were intentionally exposed to infectious agents from 38246  
zoonotic or human diseases during research, production of 38247  
biologicals, or testing of pharmaceuticals, and carcasses and 38248

bedding of animals otherwise infected by zoonotic or infectious 38249  
agents that may present a substantial threat to public health if 38250  
improperly managed; 38251

(7) Sharp wastes used in the treatment, diagnosis, or 38252  
inoculation of human beings or animals or that have, or are likely 38253  
to have, come in contact with infectious agents in medical, 38254  
research, or industrial laboratories, including, without 38255  
limitation, hypodermic needles and syringes, scalpel blades, and 38256  
glass articles that have been broken; 38257

(8) Any other waste materials generated in the diagnosis, 38258  
treatment, or immunization of human beings or animals, in research 38259  
pertaining thereto, or in the production or testing of 38260  
biologicals, that the ~~public director of health council created in~~ 38261  
~~section 3701.33 of the Revised Code~~, by rules adopted in 38262  
accordance with Chapter 119. of the Revised Code, identifies as 38263  
infectious wastes after determining that the wastes present a 38264  
substantial threat to human health when improperly managed because 38265  
they are contaminated with, or are likely to be contaminated with, 38266  
infectious agents. 38267

(S) "Infectious agent" means a type of microorganism, 38268  
helminth, or virus that causes, or significantly contributes to 38269  
the cause of, increased morbidity or mortality of human beings. 38270

(T) "Zoonotic agent" means a type of microorganism, helminth, 38271  
or virus that causes disease in vertebrate animals and that is 38272  
transmissible to human beings and causes or significantly 38273  
contributes to the cause of increased morbidity or mortality of 38274  
human beings. 38275

(U) "Solid waste transfer facility" means any site, location, 38276  
tract of land, installation, or building that is used or intended 38277  
to be used primarily for the purpose of transferring solid wastes 38278  
that were generated off the premises of the facility from vehicles 38279

or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" does not include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted.

(V) "Beneficially use" means to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in accordance with Chapter 119. of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section 4501.01 of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a

facility that will beneficially use the scrap tires, that is 38311  
located in another state, and that is operating in compliance with 38312  
the laws of the state in which the facility is located. 38313

(2) The facility exclusively stores scrap tires in portable 38314  
containers. 38315

(3) The aggregate storage of the portable containers in which 38316  
the scrap tires are stored does not exceed five thousand cubic 38317  
feet. 38318

(BB) "Scrap tire monocell facility" means an individual site 38319  
within a solid waste landfill that is used exclusively for the 38320  
environmentally sound storage or disposal of whole scrap tires or 38321  
scrap tires that have been shredded, chipped, or otherwise 38322  
mechanically processed. 38323

(CC) "Scrap tire monofill facility" means an engineered 38324  
facility used or intended to be used exclusively for the storage 38325  
or disposal of scrap tires, including at least facilities for the 38326  
submergence of whole scrap tires in a body of water. 38327

(DD) "Scrap tire recovery facility" means any facility, or 38328  
portion thereof, for the processing of scrap tires for the purpose 38329  
of extracting or producing usable products, materials, or energy 38330  
from the scrap tires through a controlled combustion process, 38331  
mechanical process, or chemical process. "Scrap tire recovery 38332  
facility" includes any facility that uses the controlled 38333  
combustion of scrap tires in a manufacturing process to produce 38334  
process heat or steam or any facility that produces usable heat or 38335  
electric power through the controlled combustion of scrap tires in 38336  
combination with another fuel, but does not include any solid 38337  
waste incineration or energy recovery facility that is designed, 38338  
constructed, and used for the primary purpose of incinerating 38339  
mixed municipal solid wastes and that burns scrap tires in 38340  
conjunction with mixed municipal solid wastes, or any tire 38341

retreading business, tire manufacturing finishing center, or tire 38342  
adjustment center having on the premises of the business a single, 38343  
covered scrap tire storage area at which not more than four 38344  
thousand scrap tires are stored. 38345

(EE) "Scrap tire storage facility" means any facility where 38346  
whole scrap tires are stored prior to their transportation to a 38347  
scrap tire monocell, monofill, or recovery facility licensed under 38348  
section 3734.81 of the Revised Code; a solid waste incineration or 38349  
energy recovery facility subject to regulation under this chapter; 38350  
a premises within the state where the scrap tires will be 38351  
beneficially used; or a scrap tire storage, monocell, monofill, or 38352  
recovery facility, any other solid waste disposal facility 38353  
authorized to dispose of scrap tires, or a facility that will 38354  
beneficially use the scrap tires, that is located in another 38355  
state, and that is operating in compliance with the laws of the 38356  
state in which the facility is located. 38357

(FF) "Used oil" means any oil that has been refined from 38358  
crude oil, or any synthetic oil, that has been used and, as a 38359  
result of that use, is contaminated by physical or chemical 38360  
impurities. "Used oil" includes only those substances identified 38361  
as used oil by the United States environmental protection agency 38362  
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 38363  
U.S.C.A. 6901a, as amended. 38364

(GG) "Accumulated speculatively" has the same meaning as in 38365  
rules adopted by the director under section 3734.12 of the Revised 38366  
Code. 38367

**Sec. 3734.131.** (A)(1) Except as provided in divisions (D)(1) 38368  
and (2) of this section, no person shall transport any solid 38369  
wastes from outside this state to a solid waste facility in this 38370  
state unless that person has first irrevocably consented in 38371  
writing to the jurisdiction of the courts of this state and 38372

service of process in this state, including, without limitation, 38373  
summonses and subpoenas, for any civil or criminal proceeding 38374  
arising out of or relating to the wastes that are shipped to a 38375  
facility in this state. 38376

(2) The original of the consent-to-jurisdiction document 38377  
shall be legible and shall be filed with the director of 38378  
environmental protection on a form provided by the director. A 38379  
legible copy of the completed document shall be filed with the 38380  
owner or operator of each solid waste facility to which the wastes 38381  
are transported. A consent-to-jurisdiction document applies only 38382  
to shipments into this state of wastes described in division 38383  
(A)(1) of this section. 38384

(3) All consent-to-jurisdiction documents required under 38385  
division (A)(1) or (3) of this section shall be refiled during the 38386  
month of December, 1995, and during the month of December of every 38387  
fourth year thereafter. Except as provided in division (D)(1) of 38388  
this section, after December 31, 1995, or after the thirty-first 38389  
day of December of every fourth year thereafter, whichever is 38390  
applicable, no person shall continue to transport any solid wastes 38391  
from outside this state to a solid waste facility in this state 38392  
unless the person refiles with the director and the owner or 38393  
operator of each facility to which the wastes are transported 38394  
consent-to-jurisdiction documents, in the manner prescribed in 38395  
division (A)(2) of this section, during the month of December next 38396  
preceding the period for which the refiled document is required. 38397

(4) If the address of a person changes from that listed on 38398  
the current consent-to-jurisdiction document filed under division 38399  
(A)(1) or (3) of this section, the person shall file amended 38400  
consent-to-jurisdiction documents containing the new address with 38401  
the director and the owner or operator of each facility to which 38402  
the wastes are transported. 38403

(5)(a) Except as provided in division (D)(1) of this section, 38404

no person identified in divisions (D)(2)(a) to (d) of this section 38405  
shall transport any solid wastes from outside this state to a 38406  
solid waste facility in this state unless the person has first 38407  
filed a notification and authorization document naming the 38408  
person's agent who is authorized to accept service of process in 38409  
this state, including, without limitation, summonses and 38410  
subpoenas, for any civil or criminal proceeding arising out of or 38411  
relating to the wastes that are shipped to a facility in this 38412  
state. 38413

The original of the notification and authorization document 38414  
shall be legible and shall be filed with the director on a form 38415  
provided by the director. A legible copy of the completed document 38416  
shall be filed with the owner or operator of each solid waste 38417  
facility to which the wastes are transported. 38418

(b) All notification and authorization documents required 38419  
under division (A)(5) of this section shall be refiled during the 38420  
month of December, 1995, and during the month of December of every 38421  
fourth year thereafter. Except as provided in division (D)(1) of 38422  
this section, after December 31, 1995, or after the thirty-first 38423  
day of December of every fourth year thereafter, whichever is 38424  
applicable, no person identified in divisions (D)(2)(a) to (d) of 38425  
this section shall continue to transport any solid wastes from 38426  
outside this state to a solid waste facility in this state unless 38427  
the person refiles with the director and the owner or operator of 38428  
each facility to which the wastes are transported notification and 38429  
authorization documents, in the manner prescribed in division 38430  
(A)(5)(a) of this section, during the month of December next 38431  
preceding the period for which the refiled document is required. 38432

(c) If a person's agent or the address of a person's agent 38433  
changes from that listed on the current notification and 38434  
authorization document filed under division (A)(5)(a) or (b) of 38435  
this section, the person shall file amended notification and 38436

authorization documents containing the name and address of the new 38437  
agent or the agent's new address with the director and the owner 38438  
or operator of each facility to which the wastes are transported. 38439

(B) A person who enters this state pursuant to a summons, 38440  
subpoena, or other form of process authorized by this section is 38441  
not subject to arrest or the service of process, whether civil or 38442  
criminal, in connection with other matters that arose before his 38443  
entrance into this state pursuant to the summons, subpoena, or 38444  
other form of process authorized by this section. 38445

(C)(1) Except as provided in division (D)(1) of this section, 38446  
no owner, operator, or employee of a solid waste facility shall 38447  
accept for treatment, transfer, storage, or disposal at the 38448  
facility any solid wastes from outside the boundaries of this 38449  
state unless the facility has received a copy of the 38450  
consent-to-jurisdiction document or notification and authorization 38451  
document required under this section and applicable to the wastes. 38452

(2) The owner or operator of a solid waste facility shall 38453  
keep the consent-to-jurisdiction documents and the notification 38454  
and authorization documents filed with him under this section at 38455  
the facility in such a location and manner that they are readily 38456  
accessible to the director or his authorized representative, and 38457  
the board of health having jurisdiction over the facility and its 38458  
authorized representative, for the purposes of sections 3734.07 38459  
and 3734.10 of the Revised Code. 38460

(D)(1) Divisions (A), (B), and (C) of this section do not 38461  
apply to the transportation, transfer, or disposal of solid wastes 38462  
from residential premises located less than ten miles outside the 38463  
boundaries of this state. 38464

(2) Divisions (A)(1) to (4) of this section do not apply to 38465  
any of the following: 38466

(a) A corporation incorporated under the laws of this state 38467

that has appointed a statutory agent pursuant to section 1701.07 38468  
of the Revised Code; 38469

(b) A foreign corporation licensed to transact business in 38470  
this state that has appointed a designated agent pursuant to 38471  
section 1703.041 of the Revised Code; 38472

(c) A ~~nonresident~~ motor carrier ~~that has designated an agent~~ 38473  
~~pursuant to, as defined in~~ section ~~4919.77~~ 4923.01 of the Revised 38474  
Code, that is a nonresident; 38475

(d) Any other person who is a resident of this state. 38476

**Sec. 3734.15.** (A) No person shall transport hazardous waste 38477  
anywhere in this state unless ~~he~~ the person has first registered 38478  
with and obtained a uniform permit from the public utilities 38479  
commission in accordance with ~~section 4905.80~~ Chapter 4921. of the 38480  
Revised Code. 38481

For the purposes of this section, "registered transporter" 38482  
means any person who is registered with and has received a uniform 38483  
permit from the public utilities commission pursuant to ~~section~~ 38484  
~~4905.80~~ Chapter 4921. of the Revised Code. 38485

(B) A registered transporter of hazardous waste shall be 38486  
responsible for the safe delivery of any hazardous waste that ~~he~~ 38487  
the registered transporter transports from such time as ~~he~~ the 38488  
registered transporter obtains the waste until ~~he~~ the registered 38489  
transporter delivers it to a treatment, storage, or disposal 38490  
facility specified in division (F) of section 3734.02 of the 38491  
Revised Code, as recorded on the manifest required in division (B) 38492  
of section 3734.12 of the Revised Code. Any registered transporter 38493  
who violates this chapter or any rule adopted under the chapter 38494  
while transporting hazardous waste shall be liable for any damage 38495  
or injury caused by the violation and for the costs of rectifying 38496  
the violation and conditions caused by the violation. 38497

(C) No person who generates hazardous waste shall cause the waste to be transported by any person who is not a registered transporter. No person shall accept for treatment, storage, or disposal any hazardous waste from an unregistered transporter. Any person who is requested to accept such waste for treatment, storage, or disposal shall notify the director, the board of health in ~~his~~ the person's location, and the public utilities commission of the request.

If a generator causes an unregistered transporter to transport the hazardous waste, the generator of the waste, the transporter, and any person who accepts the waste for treatment, storage, or disposal shall be jointly and severally liable for any damage or injury caused by the handling of the waste and for the costs of rectifying their violation and conditions caused by their violation.

**Sec. 3734.51.** There is hereby created within the environmental protection agency the solid waste management advisory council consisting of the directors of environmental protection, and development, ~~and natural resources~~, or their designees, as members ex officio, one member of the senate to be appointed by the president of the senate, one member of the house of representatives to be appointed by the speaker of the house of representatives, and fourteen members to be appointed by the governor with the advice and consent of the senate. Of the appointed members, one shall be an employee of a health district whose duties include enforcement of the solid waste provisions of this chapter, two shall represent the interests of counties, two shall represent the interests of municipal corporations, two shall represent the interests of townships, one shall represent the interests of county solid waste management districts, one shall represent the interests of joint solid waste management districts, one shall represent the interests of industrial generators of

solid wastes, one shall be from the private recycling industry, 38530  
one shall be from the private solid waste management industry, one 38531  
shall be from a statewide environmental advocacy organization, and 38532  
one shall represent the public. ~~Within ninety days after June 24,~~ 38533  
~~1988, the governor shall make the initial appointments to the~~ 38534  
~~advisory council. Of those initial appointments, six shall be for~~ 38535  
~~a term ending June 24, 1989, and six shall be for a term ending~~ 38536  
~~June 24, 1990. The governor shall make the initial appointments to~~ 38537  
~~the advisory council of the members representing county and joint~~ 38538  
~~solid waste management districts within ninety days after the~~ 38539  
~~effective date of this amendment. Of the initial appointments of~~ 38540  
~~the members representing solid waste management districts, one~~ 38541  
~~shall be for a term ending June 24, 1993, and one shall be for a~~ 38542  
~~term ending June 24, 1994. Thereafter, terms~~ Terms of office shall 38543  
be for two years with each term ending on the same day of the same 38544  
month as did the term that it succeeds. Each member shall hold 38545  
office from the date of ~~his~~ appointment until the end of the term 38546  
for which ~~he~~ the member was appointed. Members may be reappointed. 38547  
Vacancies shall be filled in the manner provided for original 38548  
appointments. Any member appointed to fill a vacancy occurring 38549  
prior to the expiration of the term for which ~~his~~ the member's 38550  
predecessor was appointed shall hold office for the remainder of 38551  
that term. A member shall continue in office subsequent to the 38552  
expiration of ~~his~~ the member's term or until a period of sixty 38553  
days has elapsed, whichever occurs first. 38554

The advisory council shall hold at least four regular 38555  
quarterly meetings each year. Special meetings may be held at the 38556  
behest of the ~~chairman~~ chairperson or a majority of the members. 38557  
The director of environmental protection shall serve as ~~chairman~~ 38558  
chairperson of the advisory council. The advisory council annually 38559  
shall select from among its members a vice-~~chairman~~ chairperson 38560  
and a secretary to keep a record of its proceedings. A majority 38561  
vote of the members of the advisory council is necessary to take 38562

action on any matter. 38563

Serving as an appointed member of the advisory council does 38564  
not constitute holding a public office or position of employment 38565  
under the laws of this state and does not constitute grounds for 38566  
removal of public officers or employees from their offices or 38567  
positions of employment. The governor may remove an appointed 38568  
member of the advisory council at any time for misfeasance, 38569  
nonfeasance, or malfeasance in office. 38570

Appointed members of the advisory council shall serve without 38571  
compensation for attending council meetings. Members of the 38572  
advisory council shall be reimbursed for their actual and 38573  
necessary expenses incurred in the performance of their duties as 38574  
members of the council from moneys appropriated to the 38575  
environmental protection agency for administration and enforcement 38576  
of the solid waste provisions of this chapter. 38577

The advisory council shall do all of the following: 38578

(A) Advise and assist the director of environmental 38579  
protection with preparation of the state solid waste management 38580  
plan and periodic revisions to the plan under section 3734.50 of 38581  
the Revised Code; 38582

(B) Approve or disapprove the draft state solid waste 38583  
management plan and periodic revisions prior to adoption of the 38584  
plan under section 3734.50 of the Revised Code; 38585

(C) Annually review implementation of the state solid waste 38586  
management plan and the solid waste management plans of county and 38587  
joint solid waste management districts approved or ordered to be 38588  
implemented under section 3734.521 or 3734.55 of the Revised Code 38589  
or amendments to those plans approved or ordered to be implemented 38590  
under section 3734.521 or 3734.56 of the Revised Code, and report 38591  
its findings to the director. 38592

Sec. 3734.55. (A) Upon completion of its draft solid waste 38593  
management plan under section 3734.54 of the Revised Code, the 38594  
solid waste management policy committee of a county or joint solid 38595  
waste management district shall send a copy of the draft plan to 38596  
the director of environmental protection for preliminary review 38597  
and comment. Within forty-five days after receiving the draft 38598  
plan, the director shall provide the committee with a written, 38599  
nonbinding advisory opinion regarding the draft plan and any 38600  
recommended changes to it that the director considers necessary to 38601  
effect its approval. After receipt of the director's written 38602  
opinion, the committee may make such revisions to the draft plan 38603  
based on the director's opinion as it considers appropriate. Upon 38604  
receipt of the director's opinion and after making any such 38605  
revisions to the draft plan, the committee shall prepare and 38606  
publish in at least one newspaper of general circulation within 38607  
the county or joint district a public notice that describes the 38608  
draft plan, specifies the location where it is available for 38609  
review, and establishes a period of thirty days for comments 38610  
concerning the draft plan. The committee shall send written notice 38611  
of the draft plan to adjacent county and joint districts and shall 38612  
make it available for review by those districts, by the board of 38613  
county commissioners of each county forming the district, by all 38614  
municipal corporations and townships within the county or joint 38615  
district, and by the public. The committee also shall send written 38616  
notice of the plan to the director and to the fifty industrial, 38617  
commercial, or institutional generators of solid wastes within the 38618  
district that generate the largest quantities of solid wastes, as 38619  
determined by the board, and their local trade associations. The 38620  
board shall make good faith efforts to identify those generators 38621  
within the district and their local trade associations, but the 38622  
nonprovision of notice under this division to a particular 38623  
industrial, commercial, or institutional generator or local trade 38624

association does not invalidate the proceedings under this 38625  
section. All such written notices shall include the date, time, 38626  
and location of the public hearing; the dates when the comment 38627  
period begins and ends; and a description of the plan that 38628  
includes, without limitation, the proposed amount of the fees to 38629  
be levied under the plan pursuant to division (B) of section 38630  
3734.57 or division (A) of section 3734.573 of the Revised Code, 38631  
if any, and an indication as to whether the provision required to 38632  
be included in the plan under division (E)(1) of section 3734.53 38633  
of the Revised Code authorizes the board of county commissioners 38634  
or directors of the district to establish, or precludes the board 38635  
from establishing, facility designations under section 343.014 of 38636  
the Revised Code. Within fifteen days after expiration of the 38637  
comment period, the committee shall conduct a public hearing 38638  
concerning the draft plan and, at least fifteen days before the 38639  
hearing, shall publish in at least one newspaper of general 38640  
circulation within the county or joint district a notice 38641  
containing the time and place of the hearing and the location 38642  
where the draft plan is available for review. 38643

(B) After the public hearing, the committee may modify the 38644  
draft plan based upon the public's comments and shall adopt or 38645  
reject it by a majority vote. Within thirty days after adoption of 38646  
the draft plan, the committee shall deliver a copy of it to the 38647  
board of county commissioners of each county forming the district 38648  
and to the legislative authority of each municipal corporation and 38649  
township under the jurisdiction of the district. Within ninety 38650  
days after receiving a copy of the draft plan adopted by the 38651  
committee, each such board and legislative authority shall approve 38652  
or disapprove the draft plan, by ordinance or resolution, and 38653  
deliver a copy of the ordinance or resolution to the committee. 38654

The solid waste management policy committee of a county 38655  
district or a joint district formed by two or three counties shall 38656

declare the draft plan to be ratified as the solid waste 38657  
management plan of the district upon determining that the board of 38658  
county commissioners of each county forming the district has 38659  
approved the draft plan and that the legislative authorities of a 38660  
combination of municipal corporations and townships with a 38661  
combined population within the county or joint district comprising 38662  
at least sixty per cent of the total population of the district 38663  
have approved the draft plan, provided that in the case of a 38664  
county district, that combination shall include the municipal 38665  
corporation having the largest population within the boundaries of 38666  
the district, and provided further that in the case of a joint 38667  
district formed by two or three counties, that combination shall 38668  
include for each county forming the joint district the municipal 38669  
corporation having the largest population within the boundaries of 38670  
both the county in which the municipal corporation is located and 38671  
the joint district. The solid waste management policy committee of 38672  
a joint district formed by four or more counties shall declare the 38673  
draft plan to be ratified as the solid waste management plan of 38674  
the joint district upon determining that the boards of county 38675  
commissioners of a majority of the counties forming the district 38676  
have approved the draft plan; that, in each of a majority of the 38677  
counties forming the joint district, the draft plan has been 38678  
approved by the municipal corporation having the largest 38679  
population within the county and the joint district; and that the 38680  
legislative authorities of a combination of municipal corporations 38681  
and townships with a combined population within the joint district 38682  
comprising at least sixty per cent of the total population of the 38683  
joint district have approved the draft plan. 38684

For the purposes of this division and division (C)(2) of this 38685  
section, only the population of the unincorporated area of a 38686  
township shall be considered. For the purpose of determining the 38687  
largest municipal corporation within each county under this 38688  
division and division (C)(2) of this section, a municipal 38689

corporation that is located in more than one solid waste 38690  
management district, but that is under the jurisdiction of one 38691  
county or joint solid waste management district in accordance with 38692  
division (A) of section 3734.52 of the Revised Code shall be 38693  
considered to be within the boundaries of the county in which a 38694  
majority of the population of the municipal corporation resides. 38695

(C)(1) Upon ratification of the draft plan under division (B) 38696  
of this section, the committee shall submit it to the director for 38697  
review and approval for compliance with the requirements of 38698  
divisions (A), (B), (D), and (E)(1) of section 3734.53 of the 38699  
Revised Code. The director, by order, shall approve or disapprove 38700  
the plan within ninety days after its submission. The director 38701  
shall include with an order disapproving a plan a statement 38702  
outlining the deficiencies in the plan and directing the committee 38703  
to submit, within ninety days after issuance of the order, a 38704  
revised plan that remedies those deficiencies, except that if the 38705  
committee, by resolution, requests an extension of the time for 38706  
submission of a revised plan, the director, for good cause shown, 38707  
may grant one such extension for a period of not more than sixty 38708  
additional days. 38709

(2) Within sixty days after issuance of the order 38710  
disapproving its plan, the committee shall prepare a draft revised 38711  
plan, adopt a draft revised plan by a majority vote, and deliver a 38712  
copy of the draft revised plan to the board of county 38713  
commissioners of each county forming the district and to the 38714  
legislative authority of each municipal corporation and township 38715  
under the jurisdiction of the district. Within twenty-one days 38716  
after the delivery of the draft revised plan, each such board and 38717  
legislative authority shall approve or disapprove the draft 38718  
revised plan, by ordinance or resolution, and deliver a copy of 38719  
the ordinance or resolution to the committee. In the case of a 38720  
county district or a joint district formed by two or three 38721

counties, the committee shall declare the draft revised plan to be 38722  
ratified as the solid waste management plan of the county or joint 38723  
district upon determining that the board of county commissioners 38724  
of each county forming the district has approved the draft revised 38725  
plan and that the legislative authorities of a combination of 38726  
municipal corporations and townships with a combined population 38727  
within the district comprising at least sixty per cent of the 38728  
total population of the district have approved the draft revised 38729  
plan, provided that in the case of a county district, that 38730  
combination shall include the municipal corporation having the 38731  
largest population within the boundaries of the district, and 38732  
provided further that in the case of a joint district formed by 38733  
two or three counties, that combination shall include for each 38734  
county forming the joint district the municipal corporation having 38735  
the largest population within the boundaries of both the county in 38736  
which the municipal corporation is located and the joint district. 38737  
In the case of a joint district formed by four or more counties, 38738  
the committee shall declare the draft revised plan to be ratified 38739  
as the solid waste management plan of the joint district upon 38740  
determining that the boards of county commissioners of a majority 38741  
of the counties forming the district have approved the draft 38742  
revised plan; that, in each of a majority of the counties forming 38743  
the joint district, the draft revised plan has been approved by 38744  
the municipal corporation having the largest population within the 38745  
county and the joint district; and that the legislative 38746  
authorities of a combination of municipal corporations and 38747  
townships with a combined population within the joint district 38748  
comprising at least sixty per cent of the total population of the 38749  
joint district have approved the draft revised plan. Upon 38750  
ratification of the draft revised plan, the committee shall submit 38751  
it to the director for approval in accordance with division (C)(1) 38752  
of this section. The director, by order, shall approve or 38753  
disapprove the draft revised plan within thirty days after 38754

receiving it. 38755

(3) Notwithstanding section 119.06 of the Revised Code, the 38756  
director may approve or disapprove a plan or revised plan 38757  
submitted under division (C)(1) or (2) of this section by issuance 38758  
of a final order that is effective upon issuance, without the 38759  
necessity to hold any adjudication hearing in connection with the 38760  
order and without issuance of a proposed action under section 38761  
3745.07 of the Revised Code. In any appeal taken under section 38762  
3745.04 of the Revised Code pertaining to the director's 38763  
disapproval of the solid waste management plan or revised plan of 38764  
a county or joint district, the solid waste management policy 38765  
committee of the county or joint district and the director shall 38766  
be the parties. Upon a showing by the policy committee that there 38767  
is a substantial likelihood that it will prevail on the merits, 38768  
the environmental review appeals commission, within thirty days 38769  
after filing of the notice of appeal under that section and 38770  
pending final determination of the appeal, may grant temporary 38771  
relief from the director's order disapproving the district's plan, 38772  
including the issuance of appropriate orders to the director to 38773  
refrain from acting under division (D) of this section. 38774

(4) After approval of the plan or revised plan by the 38775  
director, the board of county commissioners of a county district 38776  
or board of directors of a joint district shall implement the plan 38777  
in compliance with the implementation schedule contained in the 38778  
approved plan. 38779

The committee annually shall review implementation of the 38780  
plan approved under this section or section 3734.521 of the 38781  
Revised Code and subsequent amended plans approved under section 38782  
3734.521 or 3734.56 of the Revised Code and report its findings 38783  
and recommendations regarding implementation of the plan to the 38784  
board of county commissioners or board of directors of the 38785  
district. 38786

(D) If the director finds that a county or joint solid waste management district has failed to obtain approval of its solid waste management plan within eighteen months after the applicable date prescribed for submission of its plan under division (A) of section 3734.54 of the Revised Code or within twenty-four months after that date if the date for submission was extended under that division, the director shall prepare a solid waste management plan for the county or joint district that complies with divisions (A) and (D) of section 3734.53 of the Revised Code. The plan shall not contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of that section. Upon completion of the plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the plan in compliance with the implementation schedule contained in it.

Within thirty days after the effective date of the order to implement the plan, the board of county commissioners or board of directors of the district shall determine whether the solid waste management policy committee of the district should continue to exist to monitor implementation of the plan or for the purposes of division (B) of section 3734.57 or section 3734.574 of the Revised Code. The board, by resolution, may abolish the committee if it determines that the committee is not necessary for any of those purposes. If the board of county commissioners or directors of a district that has so abolished the policy committee of the district finds that it is necessary or appropriate for the district to consider levying fees under section 3734.574 of the Revised Code, the board shall reestablish and convene the policy committee to initiate proceedings to levy the fees. If the fees are levied, the policy committee shall continue to exist for as long as the district is levying the fees. If, after a policy committee is convened to initiate proceedings to levy those fees,

the fees are not levied or are abolished under section 3734.574 of 38820  
the Revised Code, the board, by resolution, may abolish the 38821  
committee if it determines that the committee is not necessary to 38822  
monitor implementation of the plan. 38823

(E) If the director finds that the board of county 38824  
commissioners or the board of directors of a district has 38825  
materially failed to implement the district's plan or amended plan 38826  
approved under division (C) of this section or section 3734.521 or 38827  
3734.56 of the Revised Code, or prepared and ordered to be 38828  
implemented under division (D) of this section or section 3734.521 38829  
or 3734.56 of the Revised Code, in compliance with the 38830  
implementation schedule contained in the plan or amended plan, the 38831  
director shall issue an enforcement order under division (A) of 38832  
section 3734.13 of the Revised Code directing the board to comply 38833  
with the implementation schedule in the plan or amended plan 38834  
within a specified, reasonable time. If the director finds that 38835  
the board of county commissioners or directors of a district for 38836  
which the provision included in the district's initial or amended 38837  
plan approved under section 3734.521, 3734.55, or 3734.56 of the 38838  
Revised Code pursuant to division (E)(1) or (2)(b) or (c) of 38839  
section 3734.53 of the Revised Code, or an amendment to the 38840  
district's approved initial or amended plan adopted and ratified 38841  
under division (F) of section 3734.56 of the Revised Code, 38842  
precludes the board from establishing facility designations under 38843  
section 343.014 of the Revised Code has initiated proceedings to 38844  
establish facility designations in violation of that section and 38845  
the district's initial or amended plan, the director shall issue 38846  
an enforcement order under division (A) of section 3734.13 of the 38847  
Revised Code directing the board, at the board's discretion, to 38848  
either abandon the proceedings or suspend them until after the 38849  
board has adopted and obtained ratification of an amendment to the 38850  
district's initial or amended plan under division (F) of section 38851  
3734.56 of the Revised Code that authorizes the board to establish 38852

facility designations under section 343.014 of the Revised Code. 38853  
If the director finds that a board of county commissioners or 38854  
directors of a district for which the provision included in the 38855  
district's initial or amended plan approved under section 38856  
3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to 38857  
division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised 38858  
Code, or an amendment to the district's approved initial or 38859  
amended plan adopted and ratified under division (F) of section 38860  
3734.56 of the Revised Code, authorizes the board to establish 38861  
facility designations under section 343.014 of the Revised Code 38862  
has established facility designations under section 343.014 of the 38863  
Revised Code or continued facility designations under section 38864  
343.015 of the Revised Code and subsequently has initiated 38865  
proceedings to terminate any such facility designations in 38866  
violation of section 343.014 of the Revised Code and the 38867  
district's initial or amended plan, the director shall issue an 38868  
enforcement order under division (A) of section 3734.13 of the 38869  
Revised Code directing the board, at the board's discretion, to 38870  
either abandon the proceedings or adopt and obtain ratification of 38871  
an amendment to the district's initial or amended plan under 38872  
division (F) of section 3734.56 of the Revised Code that precludes 38873  
the board from establishing facility designations under section 38874  
343.014 of the Revised Code. 38875

(F) The director shall maintain a record of the county and 38876  
joint solid waste management district solid waste management plans 38877  
and amended plans that the director has approved or ordered to be 38878  
implemented under this section, section 3734.521, and section 38879  
3734.56 of the Revised Code. ~~Upon determining that each county 38880  
within the state is subject to such a plan or amended plan, the 38881  
director shall notify the chief of recycling and litter prevention 38882  
in the department of natural resources of that fact. 38883~~

(G)(1) As used in divisions (C)(4), (D)(1) and (2), and (E) 38884

of this section and section 3734.521 of the Revised Code, any 38885  
reference to a board of county commissioners of a county or a 38886  
board of directors of a joint solid waste management district is 38887  
deemed to include the board of trustees of a regional solid waste 38888  
management authority formed under section 343.011 of the Revised 38889  
Code. 38890

(2) As used in this section and sections 3734.521 and 3734.57 38891  
of the Revised Code, "deliver" includes mailing as well as 38892  
delivery by a means other than mailing. 38893

**Sec. 3734.79.** (A) Except as provided in division (B) of this 38894  
section, each application for a permit submitted under sections 38895  
3734.76 to 3734.78 of the Revised Code shall be accompanied by a 38896  
nonrefundable application fee of four hundred dollars that shall 38897  
be credited to the scrap tire management fund created in section 38898  
3734.82 of the Revised Code. If a permit is issued, the amount of 38899  
the application fee paid shall be deducted from the amount of the 38900  
applicable permit fee due under division ~~(G)~~(R) of section 3745.11 38901  
of the Revised Code. 38902

(B) Division (A) of this section does not apply to an 38903  
application for a permit for a scrap tire storage facility 38904  
submitted under section 3734.76 of the Revised Code if the owner 38905  
or operator of the facility or proposed facility is a motor 38906  
vehicle salvage dealer licensed under Chapter 4738. of the Revised 38907  
Code. 38908

**Sec. 3734.82.** (A) The annual fee for a scrap tire recovery 38909  
facility license issued under section 3734.81 of the Revised Code 38910  
shall be in accordance with the following schedule: 38911

|                |         |       |
|----------------|---------|-------|
| Daily Design   | Annual  | 38912 |
| Input Capacity | License | 38913 |
| (Tons)         | Fee     | 38914 |

|             |        |       |
|-------------|--------|-------|
| 1 or less   | \$ 100 | 38915 |
| 2 to 25     | 500    | 38916 |
| 26 to 50    | 1,000  | 38917 |
| 51 to 100   | 1,500  | 38918 |
| 101 to 200  | 2,500  | 38919 |
| 201 to 500  | 3,500  | 38920 |
| 501 or more | 5,500  | 38921 |

For the purpose of determining the applicable license fee 38922  
under this division, the daily design input capacity shall be the 38923  
quantity of scrap tires the facility is designed to process daily 38924  
as set forth in the registration certificate or permit for the 38925  
facility, and any modifications to the permit, if applicable, 38926  
issued under section 3734.78 of the Revised Code. 38927

(B) The annual fee for a scrap tire monocell or monofill 38928  
facility license shall be in accordance with the following 38929  
schedule: 38930

| Authorized Maximum  | Annual   | 38931 |
|---------------------|----------|-------|
| Daily Waste Receipt | License  | 38932 |
| (Tons)              | Fee      | 38933 |
| 100 or less         | \$ 5,000 | 38934 |
| 101 to 200          | 12,500   | 38935 |
| 201 to 500          | 30,000   | 38936 |
| 501 or more         | 60,000   | 38937 |

For the purpose of determining the applicable license fee 38938  
under this division, the authorized maximum daily waste receipt 38939  
shall be the maximum amount of scrap tires the facility is 38940  
authorized to receive daily that is established in the permit for 38941  
the facility, and any modification to that permit, issued under 38942  
section 3734.77 of the Revised Code. 38943

(C)(1) Except as otherwise provided in division (C)(2) of 38944  
this section, the annual fee for a scrap tire storage facility 38945  
license shall equal one thousand dollars times the number of acres 38946

on which scrap tires are to be stored at the facility during the 38947  
license year, as set forth on the application for the annual 38948  
license, except that the total annual license fee for any such 38949  
facility shall not exceed three thousand dollars. 38950

(2) The annual fee for a scrap tire storage facility license 38951  
for a storage facility that is owned or operated by a motor 38952  
vehicle salvage dealer licensed under Chapter 4738. of the Revised 38953  
Code is one hundred dollars. 38954

(D)(1) Except as otherwise provided in division (D)(2) of 38955  
this section, the annual fee for a scrap tire collection facility 38956  
license is two hundred dollars. 38957

(2) The annual fee for a scrap tire collection facility 38958  
license for a collection facility that is owned or operated by a 38959  
motor vehicle salvage dealer licensed under Chapter 4738. of the 38960  
Revised Code is fifty dollars. 38961

(E) Except as otherwise provided in divisions (C)(2) and 38962  
(D)(2) of this section, the same fees apply to private operators 38963  
and to the state and its political subdivisions and shall be paid 38964  
within thirty days after the issuance of a license. The fees 38965  
include the cost of licensing, all inspections, and other costs 38966  
associated with the administration of the scrap tire provisions of 38967  
this chapter and rules adopted under them. Each license shall 38968  
specify that it is conditioned upon payment of the applicable fee 38969  
to the board of health or the director of environmental 38970  
protection, as appropriate, within thirty days after the issuance 38971  
of the license. 38972

(F) The board of health shall retain fifteen thousand dollars 38973  
of each license fee collected by the board under division (B) of 38974  
this section, or the entire amount of any such fee that is less 38975  
than fifteen thousand dollars, and the entire amount of each 38976  
license fee collected by the board under divisions (A), (C), and 38977

(D) of this section. The moneys retained shall be paid into a 38978  
special fund, which is hereby created in each health district, and 38979  
used solely to administer and enforce the scrap tire provisions of 38980  
this chapter and rules adopted under them. The remainder, if any, 38981  
of each license fee collected by the board under division (B) of 38982  
this section shall be transmitted to the director within 38983  
forty-five days after receipt of the fee. 38984

(G) The director shall transmit the moneys received by the 38985  
director from license fees collected under division (B) of this 38986  
section to the treasurer of state to be credited to the scrap tire 38987  
management fund, which is hereby created in the state treasury. 38988  
The fund shall consist of all federal moneys received by the 38989  
environmental protection agency for the scrap tire management 38990  
program; all grants, gifts, and contributions made to the director 38991  
for that program; and all other moneys that may be provided by law 38992  
for that program. The director shall use moneys in the fund as 38993  
follows: 38994

(1) Expend amounts determined necessary by the director to 38995  
implement, administer, and enforce the scrap tire provisions of 38996  
this chapter and rules adopted under them; 38997

(2) During each fiscal year, request the director of budget 38998  
and management to, and the director of budget and management 38999  
shall, transfer one million dollars to the scrap tire grant fund 39000  
created in section ~~1502.12~~ 3734.822 of the Revised Code for 39001  
supporting market development activities for scrap tires and 39002  
synthetic rubber from tire manufacturing processes and tire 39003  
recycling processes. In addition, during a fiscal year, the 39004  
director of environmental protection may request the director of 39005  
budget and management to, and the director of budget and 39006  
management shall, transfer up to an additional five hundred 39007  
thousand dollars to the scrap tire grant fund for scrap tire 39008  
amnesty events and scrap tire cleanup events. 39009

(3) After the expenditures and transfers are made under 39010  
divisions (G)(1) and (2) of this section, expend the balance of 39011  
the money in the scrap tire management fund remaining in each 39012  
fiscal year to conduct removal actions under section 3734.85 of 39013  
the Revised Code and to provide grants to boards of health under 39014  
section 3734.042 of the Revised Code. 39015

**Sec. ~~1502.12~~ 3734.822.** (A) There is hereby created in the 39016  
state treasury the scrap tire grant fund, consisting of moneys 39017  
transferred to the fund under section 3734.82 of the Revised Code. 39018  
The ~~chief of the division of recycling and litter prevention, with~~ 39019  
~~the approval of the~~ director of ~~natural resources,~~ environmental 39020  
protection may make grants from the fund for the following 39021  
purposes: 39022

(1) Supporting market development activities for scrap tires 39023  
and synthetic rubber from tire manufacturing processes and tire 39024  
recycling processes; 39025

(2) Supporting scrap tire amnesty and cleanup events 39026  
sponsored by solid waste management districts. 39027

Grants awarded under division (A)(1) of this section may be 39028  
awarded to individuals, businesses, and entities certified under 39029  
division (A) of section ~~1502.04~~ 3736.04 of the Revised Code. 39030

(B) Projects and activities that are eligible for grants 39031  
under division (A)(1) of this section shall be evaluated for 39032  
funding using, at a minimum, the following criteria: 39033

(1) The degree to which a proposed project contributes to the 39034  
increased use of scrap tires generated in this state; 39035

(2) The degree of local financial support for a proposed 39036  
project; 39037

(3) The technical merit and quality of a proposed project. 39038

**Sec. 3735.37.** A metropolitan housing authority shall keep an accurate account of all its activities and of all receipts and expenditures and make an annual report ~~thereof to the director of development~~ of these publicly available. All moneys received in excess of operating expenditures shall be devoted to the payment of interest and sinking fund charges for the retirement of indebtedness, whether secured by mortgage or otherwise, and from the excess there shall be set aside such fund as the authority deems proper for the purpose of covering repairs, depreciation, and reserves. Whatever balance then remains shall be applied to the reduction of rentals thereafter falling due.

**Sec. ~~1502.01~~ 3736.01.** As used in this chapter:

(A) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed, or deposited by a person on public property, on private property not owned by the person, or in or on waters of the state unless one of the following applies:

(1) The person has been directed to do so by a public official as part of a litter collection drive.

(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.

(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.

**Sec. ~~1502.03~~ 3736.02.** (A) The chief director of ~~the division~~

~~of recycling and litter prevention~~ environmental protection shall 39099  
establish and implement statewide source reduction, recycling, 39100  
recycling market development, and litter prevention programs that 39101  
are consistent with the state solid waste management plan adopted 39102  
under section 3734.50 of the Revised Code. The programs shall 39103  
include all of the following: 39104

(1) The assessment of waste generation within the state and 39105  
implementation of source reduction practices; 39106

(2) The implementation of recycling and recycling market 39107  
development activities and projects, including all of the 39108  
following: 39109

(a) Collection of recyclables; 39110

(b) Separation of recyclables; 39111

(c) Processing of recyclables; 39112

(d) Facilitation and encouragement of the use of recyclables 39113  
and products made with recyclables; 39114

(e) Education and training concerning recycling and products 39115  
manufactured with recyclables; 39116

(f) Public awareness campaigns to promote recycling; 39117

(g) Other activities and projects that promote recycling and 39118  
recycling market development. 39119

(3) Litter prevention assistance to enforce antilitter laws, 39120  
educate the public, and stimulate collection and containment of 39121  
litter; 39122

(4) Research and development regarding source reduction, 39123  
recycling, and litter prevention, including, without limitation, 39124  
research and development regarding materials or products 39125  
manufactured with recyclables. 39126

(B) ~~The chief, with the approval of the director of natural~~ 39127

~~resources,~~ may enter into contracts or other agreements and may 39128  
execute any instruments necessary or incidental to the discharge 39129  
of the ~~chief's~~ director's responsibilities under this chapter. 39130

**Sec. ~~1502.02~~ 3736.03.** (A) ~~There is hereby created in the~~ 39131  
~~department of natural resources the division of recycling and~~ 39132  
~~litter prevention to be headed by the chief of recycling and~~ 39133  
~~litter prevention.~~ 39134

~~(B)~~ There is hereby created in the state treasury the 39135  
recycling and litter prevention fund, consisting of moneys 39136  
distributed to it from fees, including the fee levied under 39137  
division (A)(2) of section 3714.073 of the Revised Code, gifts, 39138  
donations, grants, reimbursements, and other sources, including 39139  
investment earnings. 39140

~~(C)~~(B) The ~~chief~~ director of ~~recycling and litter prevention~~ 39141  
environmental protection shall do all of the following: 39142

(1) Use moneys credited to the fund exclusively for the 39143  
purposes set forth in sections ~~1502.03~~ 3736.02, ~~1502.04~~ 3736.04, 39144  
3736.05, and ~~1502.05~~ 3745.014 of the Revised Code, with particular 39145  
emphasis on programs relating to recycling; 39146

(2) ~~Expend for administration of the division not more than~~ 39147  
~~ten per cent of any fiscal year's appropriation to the division,~~ 39148  
~~excluding the amount assessed to the division for direct and~~ 39149  
~~indirect central support charges;~~ 39150

~~(3)~~ Require recipients of grants under section ~~1502.05~~ 39151  
3736.05 of the Revised Code, as a condition of receiving and 39152  
retaining them, to do all of the following: 39153

(a) Create a separate account for the grants and any cash 39154  
donations received that qualify for the donor credit allowed by 39155  
section 5733.064 of the Revised Code; 39156

(b) Make expenditures from the account exclusively for the 39157

purposes for which the grants were received; 39158

(c) Use any auditing and accounting practices the ~~chief~~ 39159  
director considers necessary regarding the account; 39160

(d) Report to the ~~chief~~ director information regarding the 39161  
amount and donor of cash donations received as described by 39162  
section 5733.064 of the Revised Code; 39163

(e) Use grants received to supplement and not to replace any 39164  
existing funding for such purposes. 39165

~~(4)~~(3) Report to the tax commissioner information the ~~chief~~ 39166  
director receives pursuant to division ~~(C)~~(3)(B)(2)(d) of this 39167  
section. 39168

**Sec. ~~1502.04~~ 3736.04.** There is hereby created within the 39169  
~~division of recycling and litter prevention~~ environmental 39170  
protection agency the recycling and litter prevention advisory 39171  
council consisting of thirteen members. The speaker of the house 39172  
of representatives shall appoint one member of the house of 39173  
representatives to the council, and the president of the senate 39174  
shall appoint one member of the senate to the council. If the 39175  
president of the senate belongs to the same political party as the 39176  
speaker of the house of representatives, the president shall 39177  
appoint a member of the senate who belongs to a different 39178  
political party as recommended by the minority leader of the 39179  
senate. ~~The speaker of the house of representatives and the~~ 39180  
~~president of the senate shall make their initial appointments to~~ 39181  
~~the council within sixty days after July 20, 1994.~~ Each member 39182  
appointed by the speaker of the house of representatives or the 39183  
president of the senate shall serve for a term of office of three 39184  
years. The appropriate appointing authority may fill any vacancy 39185  
occurring during the term of any member whom the appointing 39186  
authority has appointed to the advisory council. 39187

The remaining eleven members shall be appointed by the 39188  
governor with the advice and consent of the senate and shall be 39189  
persons with knowledge of or experience in recycling or litter 39190  
prevention programs. The council shall have broad-based 39191  
representation of interests including agriculture, labor, the 39192  
environment, manufacturing, wholesale and retail industry, and the 39193  
public. One of the business members shall be from the commercial 39194  
recycling industry, and another shall be from an industry required 39195  
to pay taxes under section 5733.065 of the Revised Code. The 39196  
director of ~~natural resources~~ environmental protection shall not 39197  
be a member of the council. ~~The governor shall make initial~~ 39198  
~~appointments to the council within thirty days after October 20,~~ 39199  
~~1987. Of the governor's initial appointments to the council, five~~ 39200  
~~shall be for a term of one year, and six shall be for a term of~~ 39201  
~~two years. Thereafter, terms~~ Terms of office shall be for three 39202  
years. Each member appointed by the governor shall hold office 39203  
from the date of the member's appointment until the end of the 39204  
term for which the member was appointed. In the event of death, 39205  
removal, resignation, or incapacity of a member of the council 39206  
appointed by the governor, the governor, with the advice and 39207  
consent of the senate, shall appoint a successor who shall hold 39208  
office for the remainder of the term for which the successor's 39209  
predecessor was appointed. A member shall continue in office 39210  
subsequent to the expiration date of the member's term until the 39211  
member's successor takes office, or until a period of sixty days 39212  
has elapsed, whichever occurs first. The governor at any time may 39213  
remove any of the governor's appointees from the council for 39214  
misfeasance, nonfeasance, or malfeasance in office. 39215

Members of the council may be reappointed. 39216

The council shall hold at least four regular quarterly 39217  
meetings each year. Special meetings may be held at the behest of 39218  
the chairperson or a majority of the members. The council annually 39219

shall select from among its members a chairperson, a 39220  
vice-chairperson, and a secretary to keep a record of its 39221  
proceedings. 39222

A majority vote of the members of the council is necessary to 39223  
take action ~~in~~ on any matter. 39224

A member of the council shall serve without compensation for 39225  
attending council meetings, but shall be reimbursed for all 39226  
traveling, hotel, and other ordinary and necessary expenses 39227  
incurred in the performance of the member's work as a member of 39228  
the council. 39229

Membership on the council does not constitute holding a 39230  
public office or position of employment under the laws of this 39231  
state and does not constitute grounds for removal of public 39232  
officers or employees from their offices or positions of 39233  
employment. 39234

The council shall do all of the following: 39235

(A) ~~In conjunction with the chief of recycling and litter~~ 39236  
~~prevention and with~~ With the approval of the director of ~~natural~~ 39237  
~~resources~~ environmental protection, establish criteria by which to 39238  
certify, and certify, agencies of the state, municipal 39239  
corporations with a population of more than fifty thousand, 39240  
counties, and solid waste management districts as eligible to 39241  
receive grants under section ~~1502.05~~ 3736.05 of the Revised Code; 39242

(B) ~~In conjunction with the chief and with~~ With the approval 39243  
of the director, establish criteria by which to certify, and 39244  
certify, political subdivisions for receipt of special grants for 39245  
activities or projects that are intended to accomplish the 39246  
purposes of any of the programs established under section ~~1502.03~~ 39247  
3736.02 of the Revised Code; 39248

(C) Advise the ~~chief~~ director in carrying out the ~~chief's~~ 39249  
director's duties under this chapter. 39250

~~Sec. 1502.05~~ 3736.05. (A) The ~~chief director~~ of ~~recycling and~~ 39251  
~~litter prevention environmental protection~~, pursuant to division 39252  
(A) of section ~~1502.04~~ 3736.04 of the Revised Code ~~and with the~~ 39253  
~~approval of the director of natural resources~~, may make grants 39254  
from the recycling and litter prevention fund created in section 39255  
~~1502.02~~ 3736.03 of the Revised Code to accomplish the purposes of 39256  
the programs established under section ~~1502.03~~ 3736.02 of the 39257  
Revised Code. 39258

(B) Except as provided in division (C) of this section, ~~the~~ 39259  
~~chief, with the approval of the director,~~ may require any eligible 39260  
applicant certified by the recycling and litter prevention 39261  
advisory council under division (A) of section ~~1502.04~~ 3736.04 of 39262  
the Revised Code that applies for a grant for an activity or 39263  
project that is intended to further the purposes of any program 39264  
established under division (A)(1), (2), or (4) of section ~~1502.03~~ 39265  
3736.02 of the Revised Code to provide a matching contribution of 39266  
not more than fifty per cent of the grant. 39267

(C) Notwithstanding division (B) of this section, any grant 39268  
awarded under division (A) of this section to foster cooperative 39269  
research and development regarding recycling or the cooperative 39270  
establishment or expansion of private recycling facilities or 39271  
programs shall be made in conjunction with a contribution to the 39272  
project by a cooperating enterprise that maintains or proposes to 39273  
maintain a relevant research and development or recycling facility 39274  
or program in this state or by an agency of the state, provided 39275  
that funding provided by a state agency shall not be provided from 39276  
general revenue funds appropriated by the general assembly. No 39277  
grant made under division (A) of this section for the purposes 39278  
described in this division shall exceed the contribution made by 39279  
the cooperating enterprise or state agency. The ~~chief director~~ may 39280  
consider cooperating contributions in the form of state of the art 39281  
new equipment or in other forms if the ~~chief director~~ determines 39282

that the contribution is essential to the successful 39283  
implementation of the project. 39284

Grants made under division (A) of this section for the 39285  
purposes described in this division shall be made in such form and 39286  
conditioned on such terms as the ~~chief~~ director considers to be 39287  
appropriate. 39288

(D)(1) The ~~chief, with the approval of the~~ director, may 39289  
require any eligible applicant certified by the recycling and 39290  
litter prevention advisory council under division (A) of section 39291  
~~1502.04~~ 3736.04 of the Revised Code that applies for a grant that 39292  
is intended to further the purposes of the program established 39293  
under division (A)(3) of section ~~1502.03~~ 3736.02 of the Revised 39294  
Code, except any eligible applicant that is or is located in a 39295  
county that has a per capita income equal to or below ninety per 39296  
cent of the median county per capita income of the state as 39297  
determined by the ~~chief~~ director using the most recently available 39298  
figures from the United States census bureau, to provide a 39299  
matching contribution as follows: 39300

(a) Up to ten per cent of the grant from any eligible 39301  
applicant that is or is located in a county that has a per capita 39302  
income above ninety per cent of the median county per capita 39303  
income of the state, but equal to or below one hundred per cent of 39304  
the median county per capita income of the state; 39305

(b) Up to twenty per cent of the grant from any eligible 39306  
applicant that is or is located in a county that has a per capita 39307  
income above the median county per capita income of the state. 39308

(2) If the eligible applicant is a joint solid waste 39309  
management district or is filing a joint application on behalf of 39310  
two or more counties, the matching contribution required under 39311  
division (D)(1) of this section shall be the average of the 39312  
matching contributions of all of the counties covered by the 39313

application as determined in accordance with that division. The 39314  
matching contribution of a county that has a per capita income 39315  
equal to or below ninety per cent of the median county per capita 39316  
income of the state shall be included as zero in calculating the 39317  
average matching contribution. 39318

(E) ~~After receiving notice from the~~ The director of 39319  
~~environmental protection that each county within the state is~~ 39320  
~~subject to the solid waste management plan of a solid waste~~ 39321  
~~management district,~~ the chief shall ensure that not less than 39322  
fifty per cent of the moneys distributed as grants under this 39323  
section shall be expended for the purposes of recycling and 39324  
recycling market development. 39325

(F) No information that is submitted to, acquired by, or 39326  
exchanged with employees of the environmental protection agency 39327  
who administer or provide services under this section and that is 39328  
submitted, acquired, or exchanged in order to obtain a grant 39329  
pursuant to division (A) of this section shall be used in any 39330  
manner for the purpose of the enforcement of any requirement 39331  
established in an environmental law or used as evidence in any 39332  
judicial or administrative enforcement proceeding unless that 39333  
information reveals a clear and immediate danger to the 39334  
environment or to the health, safety, or welfare of the public. 39335

(G) Nothing in this section confers immunity on persons from 39336  
enforcement that is based on information that is obtained by the 39337  
director or the director's authorized representatives who are not 39338  
employees of the agency who administer or provide services under 39339  
this section. 39340

(H) As used in this section, "environmental law" means a law 39341  
that is administered by the environmental protection agency. 39342

**Sec. ~~1502.06~~ 3736.06.** (A) Agencies of the state certified 39343  
pursuant to section ~~1502.04~~ 3736.04 of the Revised Code as 39344

eligible to receive a grant shall designate an employee as the liaison with the chief director of ~~recycling and litter prevention~~ environmental protection to cooperate with ~~him~~ the director in carrying out ~~his~~ the director's duties under this chapter.

(B) The executive and legislative authorities of municipal corporations, counties, and townships and the boards of park commissioners of township park districts created under section 511.18 of the Revised Code, boards of park commissioners of park districts created under section 1545.04 of the Revised Code, and boards of education of city, exempted village, local, and joint vocational school districts may participate in the programs established under section ~~1502.03~~ 3736.02 of the Revised Code.

**Sec. ~~1502.07~~ 3736.07.** No person, agency of the state, municipal corporation, county, or township shall sell or offer for sale any beer or mixed beverages as defined in section 4301.01 of the Revised Code, or any soft drink as defined in section 913.22 of the Revised Code, in a metal container that is so designed that it may be opened by removing from the container a part of the container without using a separate opener. However, nothing in this section prohibits the sale or offering for sale of a container the only detachable part of which is a piece of tape or other similar adhesive material.

**Sec. ~~1502.99~~ 3736.99.** Whoever violates section ~~1502.07~~ 3736.07 of the Revised Code is guilty of a minor misdemeanor. Each day of violation constitutes a separate offense.

**Sec. 3737.83.** The fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum 39374  
qualifications, and require certificates for all persons who 39375  
engage in the business for profit of installing, testing, 39376  
repairing, or maintaining fire protection equipment; 39377

(C) Provide for the issuance of certificates required under 39378  
division (B) of this section and establish the fees to be charged 39379  
for such certificates. A certificate shall be granted, renewed, or 39380  
revoked according to rules the fire marshal shall adopt. 39381

(D) Establish minimum standards of flammability for consumer 39382  
goods in any case where the federal government or any department 39383  
or agency thereof has established, or may from time to time 39384  
establish standards of flammability for consumer goods. The 39385  
standards established by the fire marshal shall be identical to 39386  
the minimum federal standards. 39387

In any case where the federal government or any department or 39388  
agency thereof, establishes standards of flammability for consumer 39389  
goods subsequent to the adoption of a flammability standard by the 39390  
fire marshal, standards previously adopted by the fire marshal 39391  
shall not continue in effect to the extent such standards are not 39392  
identical to the minimum federal standards. 39393

With respect to the adoption of minimum standards of 39394  
flammability, this division shall supersede any authority granted 39395  
a political subdivision by any other section of the Revised Code. 39396

(E) Establish minimum standards pursuant to section 5104.05 39397  
of the Revised Code for fire prevention and fire safety in child 39398  
day-care centers and in type A family day-care homes, as defined 39399  
in section 5104.01 of the Revised Code. 39400

(F) Establish minimum standards for fire prevention and 39401  
safety ~~an adult group home seeking licensure as an adult care in a~~ 39402  
residential facility ~~must meet~~ licensed under section ~~5119.71~~ 39403  
5119.22 of the Revised Code that provides accommodations, 39404

supervision, and personal care services for three to sixteen 39405  
unrelated adults. The fire marshal shall adopt the rules under 39406  
this division in consultation with the ~~directors~~ director of 39407  
mental health ~~and aging~~ and interested parties designated by the 39408  
~~directors~~ director of mental health ~~and aging~~. 39409

**Sec. 3737.841.** As used in this section and section 3737.842 39410  
of the Revised Code: 39411

(A) "Public occupancy" means all of the following: 39412

(1) Any state correctional institution as defined in section 39413  
2967.01 of the Revised Code and any county, multicounty, 39414  
municipal, or municipal-county jail or workhouse; 39415

(2) Any hospital as defined in section 3727.01 of the Revised 39416  
Code, any hospital licensed by the department of mental health 39417  
under section 5119.20 of the Revised Code, and any institution, 39418  
hospital, or other place established, controlled, or supervised by 39419  
the department of mental health under Chapter 5119. of the Revised 39420  
Code; 39421

(3) Any nursing home, residential care facility, or home for 39422  
the aging as defined in section 3721.01 of the Revised Code and 39423  
any ~~adult care residential~~ facility ~~as defined in licensed under~~ 39424  
section ~~5119.70~~ 5119.22 of the Revised Code that provides 39425  
accommodations, supervision, and personal care services for three 39426  
to sixteen unrelated adults; 39427

(4) Any child day-care center and any type A family day-care 39428  
home as defined in section 5104.01 of the Revised Code; 39429

(5) Any public auditorium or stadium; 39430

(6) Public assembly areas of hotels and motels containing 39431  
more than ten articles of seating furniture. 39432

(B) "Sell" includes sell, offer or expose for sale, barter, 39433  
trade, deliver, give away, rent, consign, lease, possess for sale, 39434

or dispose of in any other commercial manner. 39435

(C) Except as provided in division (D) of this section, 39436  
"seating furniture" means any article of furniture, including 39437  
children's furniture, that can be used as a support for an 39438  
individual, or an individual's limbs or feet, when sitting or 39439  
resting in an upright or reclining position and that either: 39440

(1) Is made with loose or attached cushions or pillows; 39441

(2) Is stuffed or filled in whole or in part with any filling 39442  
material; 39443

(3) Is or can be stuffed or filled in whole or in part with 39444  
any substance or material, concealed by fabric or any other 39445  
covering. 39446

"Seating furniture" includes the cushions or pillows 39447  
belonging to or forming a part of the furniture, the structural 39448  
unit, and the filling material and its container or covering. 39449

(D) "Seating furniture" does not include, except if intended 39450  
for use by children or in facilities designed for the care or 39451  
treatment of humans, any of the following: 39452

(1) Cushions or pads intended solely for outdoor use; 39453

(2) Any article with a smooth surface that contains no more 39454  
than one-half inch of filling material, if that article does not 39455  
have an upholstered horizontal surface meeting an upholstered 39456  
vertical surface; 39457

(3) Any article manufactured solely for recreational use or 39458  
physical fitness purposes, including weight-lifting benches, 39459  
gymnasium mats or pads, and sidehorses. 39460

(E) "Filling material" means cotton, wool, kapok, feathers, 39461  
down, hair, liquid, or any other natural or artificial material or 39462  
substance that is used or can be used as stuffing in seating 39463  
furniture. 39464

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| <b>Sec. 3742.01.</b> As used in this chapter:  | 39465  |
| (A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.  | 39466<br>39467<br>39468                            |
| (B) "Child care facility" means each area of any of the following in which child care, as defined in section 5104.01 of the Revised Code, is provided to children under six years of age:  | 39469<br>39470<br>39471                            |
| (1) A child day-care center, type A family day-care home, or type B family day-care home as defined in section 5104.01 of the Revised Code;  | 39472<br>39473<br>39474                            |
| (2) A type C family day-care home authorized to provide child care by Sub. H.B. 62 of the 121st general assembly, as amended by Am. Sub. S.B. 160 of the 121st general assembly and Sub. H.B. 407 of the 123rd general assembly;   | 39475<br>39476<br>39477<br>39478                   |
| (3) A preschool program or school child program as defined in section 3301.52 of the Revised Code.   | 39479<br>39480                                     |
| (C) "Clearance examination" means an examination to determine whether the lead hazards in a residential unit, child care facility, or school have been sufficiently controlled. A clearance examination includes a visual assessment, collection, and analysis of environmental samples.   | 39481<br>39482<br>39483<br>39484<br>39485          |
| (D) "Clearance technician" means a person, other than a licensed lead inspector or licensed lead risk assessor, who performs a clearance examination.  | 39486<br>39487<br>39488                            |
| (E) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the | 39489<br>39490<br>39491<br>39492<br>39493<br>39494 |

assessment or impairment of the health of human beings. "Clinical laboratory" does not include a facility that only collects or prepares specimens, or serves as a mailing service, and does not perform testing.

(F) "Encapsulation" means the coating and sealing of surfaces with durable surface coating specifically formulated to be elastic, able to withstand sharp and blunt impacts, long-lasting, and resilient, while also resistant to cracking, peeling, algae, fungus, and ultraviolet light, so as to prevent any part of lead-containing paint from becoming part of house dust or otherwise accessible to children.

(G) "Enclosure" means the resurfacing or covering of surfaces with durable materials such as wallboard or paneling, and the sealing or caulking of edges and joints, so as to prevent or control chalking, flaking, peeling, scaling, or loose lead-containing substances from becoming part of house dust or otherwise accessible to children.

(H) "Environmental lead analytical laboratory" means a facility that analyzes air, dust, soil, water, paint, film, or other substances, other than substances derived from the human body, for the presence and concentration of lead.

(I) "HEPA" means the designation given to a product, device, or system that has been equipped with a high-efficiency particulate air filter, which is a filter capable of removing particles of 0.3 microns or larger from air at 99.97 per cent or greater efficiency.

(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

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| resident education programs.   | 39526                                     |
| (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:  | 39527<br>39528<br>39529                   |
| (a) Removal of lead-based paint and lead-contaminated dust;  | 39530                                     |
| (b) Permanent enclosure or encapsulation of lead-based paint;  | 39531                                     |
| (c) Replacement of surfaces or fixtures painted with lead-based paint;   | 39532<br>39533                            |
| (d) Removal or permanent covering of lead-contaminated soil;   | 39534                                     |
| (e) Preparation, cleanup, and disposal activities associated with lead abatement.  | 39535<br>39536                            |
| (2) "Lead abatement" does not include any of the following:  | 39537                                     |
| (a) Preventive treatments performed pursuant to section 3742.41 of the Revised Code;   | 39538<br>39539                            |
| (b) Implementation of interim controls;  | 39540                                     |
| (c) Activities performed by a property owner on a residential unit to which both of the following apply:   | 39541<br>39542                            |
| (i) It is a freestanding single-family home used as the property owner's private residence.  | 39543<br>39544                            |
| (ii) No child under six years of age who has lead poisoning resides in the unit.   | 39545<br>39546                            |
| (L) "Lead abatement contractor" means any individual who engages in or intends to engage in lead abatement and employs or supervises one or more lead abatement workers, including on-site supervision of lead abatement projects, or prepares specifications, plans, or documents for a lead abatement project. | 39547<br>39548<br>39549<br>39550<br>39551 |
| (M) "Lead abatement project" means one or more lead abatement activities that are conducted by a lead abatement contractor and are reasonably related to each other.   | 39552<br>39553<br>39554                   |

(N) "Lead abatement project designer" means a person who is responsible for designing lead abatement projects and preparing a pre-abatement plan for all designed projects.

(O) "Lead abatement worker" means an individual who is responsible in a nonsupervisory capacity for the performance of lead abatement.

(P) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health, as that level is established by rule of the public health council in rules adopted under section 3742.50 of the Revised Code.

(Q) "Lead-contaminated dust" means dust that contains an area or mass concentration of lead at or in excess of the level that is hazardous to human health, as that level is established by rule of the public health council in rules adopted under section 3742.50 of the Revised Code.

(R) "Lead-contaminated soil" means soil that contains lead at or in excess of the level that is hazardous to human health, as that level is established by rule of the public health council in rules adopted under section 3742.50 of the Revised Code.

(S) "Lead hazard" means material that is likely to cause lead exposure and endanger an individual's health as determined by the public director of health council in rules adopted under section 3742.50 of the Revised Code. "Lead hazard" includes lead-based paint, lead-contaminated dust, lead-contaminated soil, and lead-contaminated water pipes.

(T) "Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint. The inspection shall use a sampling or testing technique approved by the public health council director in rules adopted ~~by the council~~ under section 3742.03 of the Revised Code. A licensed lead

inspector or laboratory approved under section 3742.09 of the Revised Code shall certify in writing the precise results of the inspection.

(U) "Lead inspector" means any individual who conducts a lead inspection, provides professional advice regarding a lead inspection, or prepares a report explaining the results of a lead inspection.

(V) "Lead poisoning" means the level of lead in human blood that is hazardous to human health, as specified in rules adopted under section 3742.50 of the Revised Code.

(W) "Lead risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead hazards in a residential unit, child care facility, or school, including information gathering from the unit, facility, or school's current owner's knowledge regarding the age and painting history of the unit, facility, or school and occupancy by children under six years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and any other activity as may be appropriate.

(X) "Lead risk assessor" means a person who is responsible for developing a written inspection, risk assessment, and analysis plan; conducting inspections for lead hazards in a residential unit, child care facility, or school; interpreting results of inspections and risk assessments; identifying hazard control strategies to reduce or eliminate lead exposures; and completing a risk assessment report.

(Y) "Lead-safe renovation" means the supervision or performance of services for the general improvement of all or part of an existing structure, including a residential unit, child care facility, or school, when the services are supervised or performed by a lead-safe renovator.

(Z) "Lead-safe renovator" means a person who has successfully completed a training program in lead-safe renovation approved under section 3742.47 of the Revised Code.

(AA) "Manager" means a person, who may be the same person as the owner, responsible for the daily operation of a residential unit, child care facility, or school.

(BB) "Permanent" means an expected design life of at least twenty years.

(CC) "Replacement" means an activity that entails removing components such as windows, doors, and trim that have lead hazards on their surfaces and installing components free of lead hazards.

(DD) "Residential unit" means a dwelling or any part of a building being used as an individual's private residence.

(EE) "School" means a public or nonpublic school in which children under six years of age receive education.

**Sec. 3742.02.** (A) No person shall do any of the following:

(1) Violate any provision of this chapter or the rules adopted pursuant to it;

(2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child care facility, or school, unless the public director of health ~~council~~ has determined by rule under section 3742.50 of the Revised Code that no suitable substitute exists;

(3) Interfere with an investigation conducted by the director of health or a board of health in accordance with section 3742.35 of the Revised Code.

(B) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child care facility, or school unless the individual who will perform

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| the lead abatement holds a valid license issued under section                      | 39646 |
| 3742.05 of the Revised Code.   | 39647 |
| (C) No person shall do any of the following when a                                 | 39648 |
| residential unit, child care facility, or school is involved:                      | 39649 |
| (1) Perform a lead inspection without a valid lead inspector                       | 39650 |
| license issued under section 3742.05 of the Revised Code;                          | 39651 |
| (2) Perform a lead risk assessment or provide professional                         | 39652 |
| advice regarding lead abatement without a valid lead risk assessor                 | 39653 |
| license issued under section 3742.05 of the Revised Code;                          | 39654 |
| (3) Act as a lead abatement contractor without a valid lead                        | 39655 |
| abatement contractor's license issued under section 3742.05 of the                 | 39656 |
| Revised Code;  | 39657 |
| (4) Act as a lead abatement project designer without a valid                       | 39658 |
| lead abatement project designer license issued under section                       | 39659 |
| 3742.05 of the Revised Code;   | 39660 |
| (5) Perform lead abatement without a valid lead abatement                          | 39661 |
| worker license issued under section 3742.05 of the Revised Code;                   | 39662 |
| (6) Effective one year after April 7, 2003, perform a                              | 39663 |
| clearance examination without a valid clearance technician license                 | 39664 |
| issued under section 3742.05 of the Revised Code, unless the                       | 39665 |
| person holds a valid lead inspector license or valid lead risk                     | 39666 |
| assessor license issued under that section;  | 39667 |
| (7) Perform lead training for the licensing purposes of this                       | 39668 |
| chapter without a valid approval from the director of health under                 | 39669 |
| section 3742.08 of the Revised Code;   | 39670 |
| (8) Perform interim controls without complying with 24 C.F.R.                      | 39671 |
| Part 35.   | 39672 |
| <b>Sec. 3742.03.</b> The <del>public</del> <u>director of health council</u> shall | 39673 |
| adopt rules in accordance with Chapter 119. of the Revised Code                    | 39674 |

for the administration and enforcement of sections 3742.01 to 39675  
3742.19 and 3742.99 of the Revised Code. The rules shall specify 39676  
all of the following: 39677

(A) Procedures to be followed by a lead abatement contractor, 39678  
lead abatement project designer, lead abatement worker, lead 39679  
inspector, or lead risk assessor licensed under section 3742.05 of 39680  
the Revised Code for undertaking lead abatement activities and 39681  
procedures to be followed by a clearance technician, lead 39682  
inspector, or lead risk assessor in performing a clearance 39683  
examination; 39684

(B)(1) Requirements for training and licensure, in addition 39685  
to those established under section 3742.08 of the Revised Code, to 39686  
include levels of training and periodic refresher training for 39687  
each class of worker, and to be used for licensure under section 39688  
3742.05 of the Revised Code. Except in the case of clearance 39689  
technicians, these requirements shall include at least twenty-four 39690  
classroom hours of training based on the Occupational Safety and 39691  
Health Act training program for lead set forth in 29 C.F.R. 39692  
1926.62. For clearance technicians, the training requirements to 39693  
obtain an initial license shall not exceed six hours and the 39694  
requirements for refresher training shall not exceed two hours 39695  
every four years. In establishing the training and licensure 39696  
requirements, the ~~public health council~~ director shall consider 39697  
the core of information that is needed by all licensed persons, 39698  
and establish the training requirements so that persons who would 39699  
seek licenses in more than one area would not have to take 39700  
duplicative course work. 39701

(2) Persons certified by the American board of industrial 39702  
hygiene as a certified industrial hygienist or as an industrial 39703  
hygienist-in-training, and persons registered as a sanitarian or 39704  
sanitarian-in-training under Chapter 4736. of the Revised Code, 39705  
shall be exempt from any training requirements for initial 39706

licensure established under this chapter, but shall be required to 39707  
take any examinations for licensure required under section 3742.05 39708  
of the Revised Code. 39709

(C) Fees for licenses issued under section 3742.05 of the 39710  
Revised Code and for their renewal; 39711

(D) Procedures to be followed by lead inspectors, lead 39712  
abatement contractors, environmental lead analytical laboratories, 39713  
lead risk assessors, lead abatement project designers, and lead 39714  
abatement workers to prevent public exposure to lead hazards and 39715  
ensure worker protection during lead abatement projects; 39716

(E)(1) Record-keeping and reporting requirements for clinical 39717  
laboratories, environmental lead analytical laboratories, lead 39718  
inspectors, lead abatement contractors, lead risk assessors, lead 39719  
abatement project designers, and lead abatement workers for lead 39720  
abatement projects and record-keeping and reporting requirements 39721  
for clinical laboratories, environmental lead analytical 39722  
laboratories, and clearance technicians for clearance 39723  
examinations; 39724

(2) Record-keeping and reporting requirements regarding lead 39725  
poisoning for physicians, in addition to the requirements of 39726  
section 3701.25 of the Revised Code; 39727

(3) Information that is required to be reported under rules 39728  
based on divisions (E)(1) and (2) of this section and that is a 39729  
medical record is not a public record under section 149.43 of the 39730  
Revised Code and shall not be released, except in aggregate 39731  
statistical form. 39732

(F) Environmental sampling techniques for use in collecting 39733  
samples of air, water, dust, paint, and other materials; 39734

(G) Requirements for a respiratory protection plan prepared 39735  
in accordance with section 3742.07 of the Revised Code; 39736

(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.

**Sec. 3742.04.** (A) The director of health shall do all of the following:

(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;

(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;

(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;

(4) Issue approval to manufacturers of encapsulants that have done all of the following:

(a) Submitted an application for approval to the director on a form prescribed by the director;

(b) Paid the application fee established by the director;

(c) Submitted results from an independent laboratory indicating that the manufacturer's encapsulants satisfy the requirements established in rules adopted under division (H) of

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| section 3742.03 of the Revised Code;                                      | 39767 |
| (d) Complied with rules adopted by the <del>public health council</del>   | 39768 |
| <u>director</u> regarding durability and safety to workers and residents. | 39769 |
| (5) Establish liaisons and cooperate with the directors or                | 39770 |
| agencies in states having lead abatement, licensing,                      | 39771 |
| accreditation, certification, and approval programs to promote            | 39772 |
| consistency between the requirements of this chapter and those of         | 39773 |
| other states in order to facilitate reciprocity of the programs           | 39774 |
| among states;   | 39775 |
| (6) Establish a program to monitor and audit the quality of               | 39776 |
| work of lead inspectors, lead risk assessors, lead abatement              | 39777 |
| project designers, lead abatement contractors, lead abatement             | 39778 |
| workers, and clearance technicians. The director may refer                | 39779 |
| improper work discovered through the program to the attorney              | 39780 |
| general for appropriate action.   | 39781 |
| (B) In addition to any other authority granted by this                    | 39782 |
| chapter, the director of health may do any of the following:              | 39783 |
| (1) Employ persons who have received training from a program              | 39784 |
| the director has determined provides the necessary background. The        | 39785 |
| appropriate training may be obtained in a state that has an               | 39786 |
| ongoing lead abatement program under which it conducts educational        | 39787 |
| programs.   | 39788 |
| (2) Cooperate with the United States environmental protection             | 39789 |
| agency in any joint oversight procedures the agency may propose           | 39790 |
| for laboratories that offer lead analysis services and are                | 39791 |
| accredited under the agency's laboratory accreditation program;           | 39792 |
| (3) Advise, consult, cooperate with, or enter into contracts              | 39793 |
| or cooperative agreements with any person, government entity,             | 39794 |
| interstate agency, or the federal government as the director              | 39795 |
| considers necessary to fulfill the requirements of this chapter           | 39796 |
| and the rules adopted under it.   | 39797 |

Sec. 3742.05. (A)(1) The director of health shall issue lead 39798  
inspector, lead abatement contractor, lead risk assessor, lead 39799  
abatement project designer, lead abatement worker, and clearance 39800  
technician licenses. The director shall issue a license to an 39801  
applicant who meets all of the following requirements: 39802

(a) Submits an application to the director on a form 39803  
prescribed by the director; 39804

(b) Meets the licensing and training requirements established 39805  
~~by the public health council~~ in rules adopted under section 39806  
3742.03 of the Revised Code; 39807

(c) Successfully completes the licensing examination for the 39808  
applicant's area of expertise administered under section 3742.08 39809  
of the Revised Code and any training required by the director 39810  
under that section; 39811

(d) Pays the license fee established ~~by the public health~~ 39812  
~~council~~ in rules adopted under section 3742.03 of the Revised 39813  
Code; 39814

(e) Provides the applicant's social security number and any 39815  
information the director may require to demonstrate the 39816  
applicant's compliance with this chapter and the rules adopted 39817  
under it. 39818

(2) An individual may hold more than one license issued under 39819  
this section, but a separate application is required for each 39820  
license. 39821

(B) A license issued under this section expires two years 39822  
after the date of issuance. The director shall renew a license in 39823  
accordance with the standard renewal procedure set forth in 39824  
Chapter 4745. of the Revised Code, if the licensee does all of the 39825  
following: 39826

(1) Continues to meet the requirements of division (A) of 39827

this section; 39828

(2) Demonstrates compliance with procedures to prevent public 39829  
exposure to lead hazards and for worker protection during lead 39830  
abatement projects established ~~by rule~~ in rules adopted ~~by the~~ 39831  
~~public health council~~ under section 3742.03 of the Revised Code; 39832

(3) Meets the record-keeping and reporting requirements for 39833  
lead abatement projects or clearance examinations established ~~by~~ 39834  
~~rule~~ in rules adopted ~~by the public health council~~ under section 39835  
3742.03 of the Revised Code; 39836

(4) Pays the license renewal fee established ~~by rule~~ in rules 39837  
adopted ~~by the public health council~~ under section 3742.03 of the 39838  
Revised Code. 39839

(C) An individual licensed, certified, or otherwise approved 39840  
under the law of another state to perform functions substantially 39841  
similar to those of a lead inspector, lead abatement contractor, 39842  
lead risk assessor, lead abatement project designer, lead 39843  
abatement worker, or clearance technician may apply to the 39844  
director of health for licensure in accordance with the procedures 39845  
set forth in division (A) of this section. The director shall 39846  
license an individual under this division on a determination that 39847  
the standards for licensure, certification, or approval in that 39848  
state are at least substantially equivalent to those established 39849  
by this chapter and the rules adopted under it. The director may 39850  
require an examination for licensure under this division. 39851

**Sec. 3742.30.** Each child at risk of lead poisoning shall 39852  
undergo a blood lead screening test to determine whether the child 39853  
has lead poisoning. The at-risk children shall undergo the test at 39854  
times determined by rules the ~~public~~ director of health ~~council~~ 39855  
shall adopt in accordance with Chapter 119. of the Revised Code 39856  
that are consistent with the guidelines established by the centers 39857  
for disease control and prevention in the public health service of 39858

the United States department of health and human services. The 39859  
rules shall specify which children are at risk of lead poisoning. 39860

Neither this section nor the rules adopted under it affect 39861  
the coverage of blood lead screening tests by any publicly funded 39862  
health program, including the medicaid program established by 39863  
Chapter 5111. of the Revised Code. Neither this section nor the 39864  
rules adopted under it apply to a child if a parent of the child 39865  
objects to the test on the grounds that the test conflicts with 39866  
the parent's religious tenets and practices. 39867

**Sec. 3742.31.** (A) The director of health shall establish, 39868  
promote, and maintain a child lead poisoning prevention program. 39869  
The program shall provide statewide coordination of screening, 39870  
diagnosis, and treatment services for children under age six, 39871  
including both of the following: 39872

(1) Collecting the social security numbers of all children 39873  
screened, diagnosed, or treated as part of the program's case 39874  
management system; 39875

(2) Disclosing to the office of ~~Ohio health plans~~ medical 39876  
assistance in the department of job and family services on at 39877  
least an annual basis the identity and lead screening test results 39878  
of each child screened pursuant to section 3742.30 of the Revised 39879  
Code. The director shall collect and disseminate information 39880  
relating to child lead poisoning and controlling lead hazards. 39881

(B) The director of health shall operate the child lead 39882  
poisoning prevention program in accordance with rules adopted 39883  
under section 3742.50 of the Revised Code. The director may enter 39884  
into an interagency agreement with one or more other state 39885  
agencies to perform one or more of the program's duties. The 39886  
director shall supervise and direct an agency's performance of 39887  
such a duty. 39888

Sec. 3742.32. (A) The director of health shall appoint an advisory council to assist in the ongoing development and implementation of the child lead poisoning prevention program created under section 3742.31 of the Revised Code. The advisory council shall consist of the following members:

(1) A representative of the office of ~~Ohio health plans~~ medical assistance in the department of job and family services;

(2) A representative of the bureau of child care in the department of job and family services;

(3) A representative of the department of environmental protection;

(4) A representative of the department of education;

(5) A representative of the department of development;

(6) A representative of the Ohio apartment owner's association;

(7) A representative of the Ohio help end lead poisoning coalition;

(8) A representative of the Ohio environmental health association;

(9) An Ohio representative of the national paint and coatings association.

(B) The advisory council shall do both of the following:

(1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation;

(2) Submit a report of the state's activities to the governor, president of the senate, and speaker of the house of representatives on or before the first day of March each year.

(C) The advisory council is not subject to sections 101.82 to 39918  
101.87 of the Revised Code. 39919

**Sec. 3742.47.** (A) A person seeking approval of a training 39920  
program in either essential maintenance practices or lead-safe 39921  
renovation shall apply for approval to the director of health. The 39922  
application shall be made on a form prescribed by the director and 39923  
shall include the fee established under division (B) of this 39924  
section. The director shall issue approval to the applicant if the 39925  
applicant demonstrates to the satisfaction of the director that 39926  
the training program will meet the following requirements and any 39927  
other training program requirements established by rules adopted 39928  
under section 3742.50 of the Revised Code: 39929

(1) Conducts the training program in a period of time that 39930  
does not exceed six hours; 39931

(2) Administers an examination established by rule of the 39932  
~~public health council~~ director at the end of the training program 39933  
to each person who completes the training; 39934

(3) Grades each examination not later than one week after its 39935  
completion and determines whether the person who took the 39936  
examination received a passing score; 39937

(4) Not later than one week after the examination is 39938  
completed provides written proof of training program completion to 39939  
each person who completes the program and passes the examination. 39940

(B) The director of health shall establish an application fee 39941  
for approving training programs under this section. The fee shall 39942  
be reasonable and shall not exceed the expenses incurred in 39943  
conducting the approval of training programs. An application fee 39944  
submitted under division (A) of this section is nonrefundable. 39945

**Sec. 3742.50.** (A) The ~~public~~ director of health ~~council~~ shall 39946  
adopt rules in accordance with Chapter 119. of the Revised Code 39947

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| establishing all of the following:  | 39948   |
| (1) Procedures necessary for the development and operation of the child lead poisoning prevention program established under section 3742.31 of the Revised Code;  | 39949<br>39950<br>39951                                     |
| (2) Standards and procedures for conducting investigations and risk assessments under sections 3742.35 and 3742.36 of the Revised Code;   | 39952<br>39953<br>39954                                     |
| (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;  | 39955<br>39956<br>39957<br>39958                            |
| (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;  | 39959<br>39960<br>39961<br>39962                            |
| (5) The level of lead in paint, dust, and soil that is hazardous to human health;   | 39963<br>39964  |
| (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; | 39965<br>39966<br>39967<br>39968<br>39969<br>39970<br>39971 |
| (7) Standards that must be met to pass a clearance examination;   | 39972<br>39973  |
| (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  | 39974<br>39975<br>39976<br>39977                            |

must meet to receive approval; 39978

(9) The examination to be administered by a training program 39979  
approved under section 3742.47 of the Revised Code and the 39980  
examination's passing score. 39981

(B) The ~~public health council~~ director shall establish 39982  
procedures for revising its rules to ensure that the child lead 39983  
poisoning prevention activities conducted under this chapter 39984  
continue to meet the requirements necessary to obtain any federal 39985  
funding available for those activities, including requirements 39986  
established by the United States environmental protection agency, 39987  
United States department of housing and urban development, or any 39988  
other federal agency with jurisdiction over activities pertaining 39989  
to child lead poisoning prevention. 39990

**Sec. 3743.04.** (A) The license of a manufacturer of fireworks 39991  
is effective for one year beginning on the first day of December. 39992  
The state fire marshal shall issue or renew a license only on that 39993  
date and at no other time. If a manufacturer of fireworks wishes 39994  
to continue manufacturing fireworks at the designated fireworks 39995  
plant after its then effective license expires, it shall apply no 39996  
later than the first day of October for a new license pursuant to 39997  
section 3743.02 of the Revised Code. The state fire marshal shall 39998  
send a written notice of the expiration of its license to a 39999  
licensed manufacturer at least three months before the expiration 40000  
date. 40001

(B) If, during the effective period of its licensure, a 40002  
licensed manufacturer of fireworks wishes to construct, locate, or 40003  
relocate any buildings or other structures on the premises of its 40004  
fireworks plant, to make any structural change or renovation in 40005  
any building or other structure on the premises of its fireworks 40006  
plant, or to change the nature of its manufacturing of fireworks 40007  
so as to include the processing of fireworks, the manufacturer 40008

shall notify the state fire marshal in writing. The state fire 40009  
marshal may require a licensed manufacturer also to submit 40010  
documentation, including, but not limited to, plans covering the 40011  
proposed construction, location, relocation, structural change or 40012  
renovation, or change in manufacturing of fireworks, if the state 40013  
fire marshal determines the documentation is necessary for 40014  
evaluation purposes in light of the proposed construction, 40015  
location, relocation, structural change or renovation, or change 40016  
in manufacturing of fireworks. 40017

Upon receipt of the notification and additional documentation 40018  
required by the state fire marshal, the state fire marshal shall 40019  
inspect the premises of the fireworks plant to determine if the 40020  
proposed construction, location, relocation, structural change or 40021  
renovation, or change in manufacturing of fireworks conforms to 40022  
sections 3743.02 to 3743.08 of the Revised Code and the rules 40023  
adopted by the state fire marshal pursuant to section 3743.05 of 40024  
the Revised Code. The state fire marshal shall issue a written 40025  
authorization to the manufacturer for the construction, location, 40026  
relocation, structural change or renovation, or change in 40027  
manufacturing of fireworks if the state fire marshal determines, 40028  
upon the inspection and a review of submitted documentation, that 40029  
the construction, location, relocation, structural change or 40030  
renovation, or change in manufacturing of fireworks conforms to 40031  
those sections and rules. Upon authorizing a change in 40032  
manufacturing of fireworks to include the processing of fireworks, 40033  
the state fire marshal shall make notations on the manufacturer's 40034  
license and in the list of licensed manufacturers in accordance 40035  
with section 3743.03 of the Revised Code. 40036

On or before June 1, 1998, a licensed manufacturer shall 40037  
install, in every licensed building in which fireworks are 40038  
manufactured, stored, or displayed and to which the public has 40039  
access, interlinked fire detection, smoke exhaust, and smoke 40040

evacuation systems that are approved by the superintendent of 40041  
~~labor~~ industrial compliance, and shall comply with floor plans 40042  
showing occupancy load limits and internal circulation and egress 40043  
patterns that are approved by the state fire marshal and 40044  
superintendent, and that are submitted under seal as required by 40045  
section 3791.04 of the Revised Code. Notwithstanding section 40046  
3743.59 of the Revised Code, the construction and safety 40047  
requirements established in this division are not subject to any 40048  
variance, waiver, or exclusion. 40049

(C) The license of a manufacturer of fireworks authorizes the 40050  
manufacturer to engage only in the following activities: 40051

(1) The manufacturing of fireworks on the premises of the 40052  
fireworks plant as described in the application for licensure or 40053  
in the notification submitted under division (B) of this section, 40054  
except that a licensed manufacturer shall not engage in the 40055  
processing of fireworks unless authorized to do so by its license. 40056

(2) To possess for sale at wholesale and sell at wholesale 40057  
the fireworks manufactured by the manufacturer, to persons who are 40058  
licensed wholesalers of fireworks, to out-of-state residents in 40059  
accordance with section 3743.44 of the Revised Code, to residents 40060  
of this state in accordance with section 3743.45 of the Revised 40061  
Code, or to persons located in another state provided the 40062  
fireworks are shipped directly out of this state to them by the 40063  
manufacturer. A person who is licensed as a manufacturer of 40064  
fireworks on June 14, 1988, also may possess for sale and sell 40065  
pursuant to division (C)(2) of this section fireworks other than 40066  
those the person manufactures. The possession for sale shall be on 40067  
the premises of the fireworks plant described in the application 40068  
for licensure or in the notification submitted under division (B) 40069  
of this section, and the sale shall be from the inside of a 40070  
licensed building and from no other structure or device outside a 40071  
licensed building. At no time shall a licensed manufacturer sell 40072

any class of fireworks outside a licensed building. 40073

(3) Possess for sale at retail and sell at retail the 40074  
fireworks manufactured by the manufacturer, other than 1.4G 40075  
fireworks as designated by the state fire marshal in rules adopted 40076  
pursuant to division (A) of section 3743.05 of the Revised Code, 40077  
to licensed exhibitors in accordance with sections 3743.50 to 40078  
3743.55 of the Revised Code, and possess for sale at retail and 40079  
sell at retail the fireworks manufactured by the manufacturer, 40080  
including 1.4G fireworks, to out-of-state residents in accordance 40081  
with section 3743.44 of the Revised Code, to residents of this 40082  
state in accordance with section 3743.45 of the Revised Code, or 40083  
to persons located in another state provided the fireworks are 40084  
shipped directly out of this state to them by the manufacturer. A 40085  
person who is licensed as a manufacturer of fireworks on June 14, 40086  
1988, may also possess for sale and sell pursuant to division 40087  
(C)(3) of this section fireworks other than those the person 40088  
manufactures. The possession for sale shall be on the premises of 40089  
the fireworks plant described in the application for licensure or 40090  
in the notification submitted under division (B) of this section, 40091  
and the sale shall be from the inside of a licensed building and 40092  
from no other structure or device outside a licensed building. At 40093  
no time shall a licensed manufacturer sell any class of fireworks 40094  
outside a licensed building. 40095

A licensed manufacturer of fireworks shall sell under 40096  
division (C) of this section only fireworks that meet the 40097  
standards set by the consumer product safety commission or by the 40098  
American fireworks standard laboratories or that have received an 40099  
EX number from the United States department of transportation. 40100

(D) The license of a manufacturer of fireworks shall be 40101  
protected under glass and posted in a conspicuous place on the 40102  
premises of the fireworks plant. Except as otherwise provided in 40103  
this division, the license is not transferable or assignable. A 40104

license may be transferred to another person for the same 40105  
fireworks plant for which the license was issued if the assets of 40106  
the plant are transferred to that person by inheritance or by a 40107  
sale approved by the state fire marshal. The license is subject to 40108  
revocation in accordance with section 3743.08 of the Revised Code. 40109

(E) The state fire marshal shall not place the license of a 40110  
manufacturer of fireworks in a temporarily inactive status while 40111  
the holder of the license is attempting to qualify to retain the 40112  
license. 40113

(F) Each licensed manufacturer of fireworks that possesses 40114  
fireworks for sale and sells fireworks under division (C) of 40115  
section 3743.04 of the Revised Code, or a designee of the 40116  
manufacturer, whose identity is provided to the state fire marshal 40117  
by the manufacturer, annually shall attend a continuing education 40118  
program. The state fire marshal shall develop the program and the 40119  
state fire marshal or a person or public agency approved by the 40120  
state fire marshal shall conduct it. A licensed manufacturer or 40121  
the manufacturer's designee who attends a program as required 40122  
under this division, within one year after attending the program, 40123  
shall conduct in-service training as approved by the state fire 40124  
marshal for other employees of the licensed manufacturer regarding 40125  
the information obtained in the program. A licensed manufacturer 40126  
shall provide the state fire marshal with notice of the date, 40127  
time, and place of all in-service training. For any program 40128  
conducted under this division, the state fire marshal shall, in 40129  
accordance with rules adopted by the state fire marshal under 40130  
Chapter 119. of the Revised Code, establish the subjects to be 40131  
taught, the length of classes, the standards for approval, and 40132  
time periods for notification by the licensee to the state fire 40133  
marshal of any in-service training. 40134

(G) A licensed manufacturer shall maintain comprehensive 40135  
general liability insurance coverage in the amount and type 40136

specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the state fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the state fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The state fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the state fire marshal in accordance with rules the state fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the state fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval. 40169  
40170  
40171

(b) The identity of the holder of the license remains the same at the storage location. 40172  
40173

(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations. 40174  
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(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code. 40183  
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(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after September 29, 2005. 40189  
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(f) The state fire marshal approves the application for expansion. 40194  
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(2) The state fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the state fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are 40196  
40197  
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40199

satisfied. The storage location shall be considered part of the 40200  
original licensed premises and shall use the same distinct number 40201  
assigned to the original licensed premises with any additional 40202  
designations as the state fire marshal deems necessary in 40203  
accordance with section 3743.03 of the Revised Code. 40204

(J)(1) A licensee who obtains approval for the use of a 40205  
storage location in accordance with division (I) of this section 40206  
shall use the storage location exclusively for the following 40207  
activities, in accordance with division (C) of this section: 40208

(a) The packaging, assembling, or storing of fireworks, which 40209  
shall only occur in buildings or structures approved for such 40210  
hazardous uses by the building code official having jurisdiction 40211  
for the storage location or, for 1.4G fireworks, in containers or 40212  
trailers approved for such hazardous uses by the state fire 40213  
marshal if such containers or trailers are not subject to 40214  
regulation by the building code adopted in accordance with Chapter 40215  
3781. of the Revised Code. All such storage shall be in accordance 40216  
with the rules adopted by the state fire marshal under division 40217  
(G) of section 3743.05 of the Revised Code for the packaging, 40218  
assembling, and storage of fireworks. 40219

(b) Distributing fireworks to other parcels of real estate 40220  
located on the manufacturer's licensed premises, to licensed 40221  
wholesalers or other licensed manufacturers in this state or to 40222  
similarly licensed persons located in another state or country; 40223

(c) Distributing fireworks to a licensed exhibitor of 40224  
fireworks pursuant to a properly issued permit in accordance with 40225  
section 3743.54 of the Revised Code. 40226

(2) A licensed manufacturer shall not engage in any sales 40227  
activity, including the retail sale of fireworks otherwise 40228  
permitted under division (C)(2) or (C)(3) of this section, or 40229  
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 40230

storage location approved under this section. 40231

(3) A storage location may not be relocated for a minimum 40232  
period of five years after the storage location is approved by the 40233  
state fire marshal in accordance with division (I) of this 40234  
section. 40235

(K) The licensee shall prohibit public access to the storage 40236  
location. The state fire marshal shall adopt rules to describe the 40237  
acceptable measures a manufacturer shall use to prohibit access to 40238  
the storage site. 40239

**Sec. 3743.06.** In addition to conforming to the rules of the 40240  
fire marshal adopted pursuant to section 3743.05 of the Revised 40241  
Code, licensed manufacturers of fireworks shall operate their 40242  
fireworks plants in accordance with the following: 40243

(A) Signs indicating that smoking is generally forbidden and 40244  
trespassing is prohibited on the premises of a fireworks plant 40245  
shall be posted on the premises in a manner determined by the fire 40246  
marshal. 40247

(B) Reasonable precautions shall be taken to protect the 40248  
premises of a fireworks plant from trespass, loss, theft, or 40249  
destruction. Only persons employed by the manufacturer, authorized 40250  
governmental personnel, and persons who have obtained permission 40251  
from a member of the manufacturer's office to be on the premises, 40252  
are to be allowed to enter and remain on the premises. 40253

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 40254  
matches, lighters, other flame-producing items, or open flame on, 40255  
or the carrying of a concealed source of ignition into, the 40256  
premises of a fireworks plant is prohibited, except that a 40257  
manufacturer may permit smoking in specified lunchrooms or 40258  
restrooms in buildings or other structures in which no 40259  
manufacturing, handling, sales, or storage of fireworks takes 40260

place. "NO SMOKING" signs shall be posted on the premises as 40261  
required by the fire marshal. 40262

(D) Fire and explosion prevention and other reasonable safety 40263  
measures and precautions shall be implemented by a manufacturer. 40264

(E) Persons shall not be permitted to have in their 40265  
possession or under their control, while they are on the premises 40266  
of the fireworks plant, any intoxicating liquor, beer, or 40267  
controlled substance, and they shall not be permitted to enter or 40268  
remain on the premises if they are found to be under the influence 40269  
of any intoxicating liquor, beer, or controlled substance. 40270

(F) A manufacturer shall conform to all building, safety, and 40271  
zoning statutes, ordinances, rules, or other enactments that apply 40272  
to the premises of its fireworks plant. 40273

(G) Each fireworks plant shall have at least one class 1 40274  
magazine that is approved by the bureau of alcohol, tobacco, and 40275  
firearms of the United States department of the treasury and that 40276  
is otherwise in conformity with federal law. This division does 40277  
not apply to fireworks plants existing on or before August 3, 40278  
1931. 40279

(H) Awnings, tents, and canopies shall not be used as 40280  
facilities for the sale or storage of fireworks. This division 40281  
does not prohibit the use of an awning or canopy attached to a 40282  
public access showroom for storing nonflammable shopping 40283  
convenience items such as shopping carts or baskets or providing a 40284  
shaded area for patrons waiting to enter the public sales area. 40285

(I) Fireworks may be stored in trailers if the trailers are 40286  
properly enclosed, secured, and grounded and are separated from 40287  
any structure to which the public is admitted by a distance that 40288  
will, in the fire marshal's judgment, allow fire-fighting 40289  
equipment to have full access to the structures on the licensed 40290  
premises. Such trailers may be moved into closer proximity to any 40291

structure only to accept or discharge cargo for a period not to 40292  
exceed forty-eight hours. Only two such trailers may be placed in 40293  
such closer proximity at any one time. At no time may trailers be 40294  
used for conducting sales of any class of fireworks, nor may 40295  
members of the public have access to the trailers. 40296

Storage areas for fireworks that are in the same building 40297  
where fireworks are displayed and sold to the public shall be 40298  
separated from the areas to which the public has access by an 40299  
appropriately rated fire wall. 40300

(J) A fire suppression system as defined in section 3781.108 40301  
of the Revised Code may be turned off only for repair, drainage of 40302  
the system to prevent damage by freezing during the period of 40303  
time, approved by the fire marshal, that the facility is closed to 40304  
all public access during winter months, or maintenance of the 40305  
system. If any repair or maintenance is necessary during times 40306  
when the facility is open for public access and business as 40307  
approved by the fire marshal, the licensed manufacturer shall 40308  
notify in advance the appropriate insurance company and fire chief 40309  
or fire prevention officer regarding the nature of the maintenance 40310  
or repair and the time when it will be performed. 40311

(K) If any fireworks item is removed from its original 40312  
package or is manufactured with any fuse other than a safety fuse 40313  
approved by the consumer product safety commission, then the item 40314  
shall be covered completely by repackaging or bagging or it shall 40315  
otherwise be covered so as to prevent ignition prior to sale. 40316

(L) A safety officer shall be present during regular business 40317  
hours at a building open to the public during the period 40318  
commencing fourteen days before, and ending two days after, each 40319  
fourth day of July. The officer shall be highly visible, enforce 40320  
this chapter and any applicable building codes to the extent the 40321  
officer is authorized by law, and be one of the following: 40322

|   |   |
|---|---|
| (1) A deputy sheriff;   | 40323   |
| (2) A law enforcement officer of a municipal corporation,<br>township, or township or joint police district;  | 40324<br>40325  |
| (3) A private uniformed security guard registered under<br>section 4749.06 of the Revised Code.   | 40326<br>40327  |
| (M) All doors of all buildings on the licensed premises shall<br>swing outward.   | 40328<br>40329  |
| (N) All wholesale and commercial sales of fireworks shall be<br>packaged, shipped, placarded, and transported in accordance with<br>United States department of transportation regulations applicable<br>to the transportation, and the offering for transportation, of<br>hazardous materials. For purposes of this division, "wholesale and<br>commercial sales" includes all sales for resale and any nonretail<br>sale made in furtherance of a commercial enterprise. For purposes<br>of enforcement of these regulations under section <del>4905.83</del> <u>4923.99</u><br>of the Revised Code, any sales transaction exceeding one thousand<br>pounds shall be rebuttably presumed to be a wholesale or<br>commercial sale. | 40330<br>40331<br>40332<br>40333<br>40334<br>40335<br>40336<br>40337<br>40338<br>40339<br>40340 |
| <b>Sec. 3743.19.</b> In addition to conforming to the rules of the<br>fire marshal adopted pursuant to section 3743.18 of the Revised<br>Code, licensed wholesalers of fireworks shall conduct their<br>business operations in accordance with the following:   | 40341<br>40342<br>40343<br>40344  |
| (A) A wholesaler shall conduct its business operations from<br>the location described in its application for licensure or in a<br>notification submitted under division (B) of section 3743.17 of<br>the Revised Code.  | 40345<br>40346<br>40347<br>40348  |
| (B) Signs indicating that smoking is generally forbidden and<br>trespassing is prohibited on the premises of a wholesaler shall be<br>posted on the premises as determined by the fire marshal.   | 40349<br>40350<br>40351   |
| (C) Reasonable precautions shall be taken to protect the  | 40352   |

premises of a wholesaler from trespass, loss, theft, or 40353  
destruction. 40354

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 40355  
matches, lighters, other flame-producing items, or open flame on, 40356  
or the carrying of a concealed source of ignition into, the 40357  
premises of a wholesaler is prohibited, except that a wholesaler 40358  
may permit smoking in specified lunchrooms or restrooms in 40359  
buildings or other structures in which no sales, handling, or 40360  
storage of fireworks takes place. "NO SMOKING" signs shall be 40361  
posted on the premises as required by the fire marshal. 40362

(E) Fire and explosion prevention and other reasonable safety 40363  
measures and precautions shall be implemented by a wholesaler. 40364

(F) Persons shall not be permitted to have in their 40365  
possession or under their control, while they are on the premises 40366  
of a wholesaler, any intoxicating liquor, beer, or controlled 40367  
substance, and they shall not be permitted to enter or remain on 40368  
the premises if they are found to be under the influence of any 40369  
intoxicating liquor, beer, or controlled substance. 40370

(G) A wholesaler shall conform to all building, safety, and 40371  
zoning statutes, ordinances, rules, or other enactments that apply 40372  
to its premises. 40373

(H) Each building used in the sale of fireworks shall be kept 40374  
open to the public for at least four hours each day between the 40375  
hours of eight a.m. and five p.m., five days of each week, every 40376  
week of the year. Upon application from a licensed wholesaler, the 40377  
fire marshal may waive any of the requirements of this division. 40378

(I) Awnings, tents, or canopies shall not be used as 40379  
facilities for the storage or sale of fireworks. This division 40380  
does not prohibit the use of an awning or canopy attached to a 40381  
public access showroom for storing nonflammable shopping 40382  
convenience items such as shopping carts or baskets or providing a 40383

shaded area for patrons waiting to enter the public sales area. 40384

(J) 1.4G fireworks may be stored in trailers if the trailers 40385  
are properly enclosed, secured, and grounded and are separated 40386  
from any structure to which the public is admitted by a distance 40387  
that will, in the fire marshal's judgment, allow fire-fighting 40388  
equipment to have full access to the structures on the licensed 40389  
premises. Such trailers may be moved into closer proximity to any 40390  
structure only to accept or discharge cargo for a period not to 40391  
exceed forty-eight hours. Only two such trailers may be placed in 40392  
such closer proximity at any one time. At no time may trailers be 40393  
used for conducting sales of any class of fireworks nor may 40394  
members of the public have access to the trailers. 40395

Storage areas for fireworks that are in the same building 40396  
where fireworks are displayed and sold to the public shall be 40397  
separated from the areas to which the public has access by an 40398  
appropriately rated fire wall. If the licensee installs and 40399  
properly maintains an early suppression fast response sprinkler 40400  
system or equivalent fire suppression system as described in the 40401  
fire code adopted by the fire marshal in accordance with section 40402  
3737.82 of the Revised Code throughout the structure, a fire 40403  
barrier wall may be substituted for a fire wall between the areas 40404  
to which the public has access and the storage portions of the 40405  
structure. 40406

(K) A fire suppression system as defined in section 3781.108 40407  
of the Revised Code may be turned off only for repair, drainage of 40408  
the system to prevent damage by freezing during the period of 40409  
time, approved by the fire marshal under division (I) of this 40410  
section, that the facility is closed to public access during 40411  
winter months, or maintenance of the system. If any repair or 40412  
maintenance is necessary during times when the facility is open 40413  
for public access and business, the licensed wholesaler shall 40414  
notify in advance the appropriate insurance company and fire chief 40415

or fire prevention officer regarding the nature of the maintenance 40416  
or repair and the time when it will be performed. 40417

(L) If any fireworks item is removed from its original 40418  
package or is manufactured with any fuse other than a fuse 40419  
approved by the consumer product safety commission, then the item 40420  
shall be covered completely by repackaging or bagging or it shall 40421  
otherwise be covered so as to prevent ignition prior to sale. 40422

(M) A safety officer shall be present during regular business 40423  
hours at a building open to the public during the period 40424  
commencing fourteen days before, and ending two days after, each 40425  
fourth day of July. The officer shall be highly visible, enforce 40426  
this chapter and any applicable building codes to the extent the 40427  
officer is authorized by law, and be one of the following: 40428

(1) A deputy sheriff; 40429

(2) A law enforcement officer of a municipal corporation, 40430  
township, or township or joint police district; 40431

(3) A private uniformed security guard registered under 40432  
section 4749.06 of the Revised Code. 40433

(N) All doors of all buildings on the licensed premises shall 40434  
swing outward. 40435

(O) All wholesale and commercial sales of fireworks shall be 40436  
packaged, shipped, placarded, and transported in accordance with 40437  
United States department of transportation regulations applicable 40438  
to the transportation, and the offering for transportation, of 40439  
hazardous materials. For purposes of this division, "wholesale and 40440  
commercial sales" includes all sales for resale and any nonretail 40441  
sale made in furtherance of a commercial enterprise. For purposes 40442  
of enforcement of these regulations under section ~~4905.83~~ 4923.99 40443  
of the Revised Code, any sales transaction exceeding one thousand 40444  
pounds shall be rebuttably presumed to be a wholesale or 40445  
commercial sale. 40446

**Sec. 3743.25.** (A)(1) Except as described in division (A)(2) 40447  
of this section, all retail sales of 1.4G fireworks by a licensed 40448  
manufacturer or wholesaler shall only occur from an approved 40449  
retail sales showroom on a licensed premises or from a 40450  
representative sample showroom as described in this section on a 40451  
licensed premises. For the purposes of this section, a retail sale 40452  
includes the transfer of the possession of the 1.4G fireworks from 40453  
the licensed manufacturer or wholesaler to the purchaser of the 40454  
fireworks. 40455

(2) Sales of 1.4G fireworks to a licensed exhibitor for a 40456  
properly permitted exhibition shall occur in accordance with the 40457  
provisions of the Revised Code and rules adopted by the state fire 40458  
marshal under Chapter 119. of the Revised Code. Such rules shall 40459  
specify, at a minimum, that the licensed exhibitor holds a license 40460  
under section 3743.51 of the Revised Code, that the exhibitor 40461  
possesses a valid exhibition permit issued in accordance with 40462  
section 3743.54 of the Revised Code, and that the fireworks 40463  
shipped are to be used at the specifically permitted exhibition. 40464

(B) All wholesale sales of fireworks by a licensed 40465  
manufacturer or wholesaler shall only occur from a licensed 40466  
premises to persons who intend to resell the fireworks purchased 40467  
at wholesale. A wholesale sale by a licensed manufacturer or 40468  
wholesaler may occur as follows: 40469

(1) The direct sale and shipment of fireworks to a person 40470  
outside of this state; 40471

(2) From an approved retail sales showroom as described in 40472  
this section; 40473

(3) From a representative sample showroom as described in 40474  
this section; 40475

(4) By delivery of wholesale fireworks to a purchaser at a 40476

licensed premises outside of a structure or building on that 40477  
premises. All other portions of the wholesale sales transaction 40478  
may occur at any location on a licensed premises. 40479

(5) Any other method as described in rules adopted by the 40480  
state fire marshal under Chapter 119. of the Revised Code. 40481

(C) A licensed manufacturer or wholesaler shall only sell 40482  
1.4G fireworks from a representative sample showroom or a retail 40483  
sales showroom. Each licensed premises shall only contain one 40484  
sales structure. 40485

A representative sample showroom shall consist of a structure 40486  
constructed and maintained in accordance with the nonresidential 40487  
building code adopted under Chapter 3781. of the Revised Code and 40488  
the fire code adopted under section 3737.82 of the Revised Code 40489  
for a use and occupancy group that permits mercantile sales. A 40490  
representative sample showroom shall not contain any pyrotechnics, 40491  
pyrotechnic materials, fireworks, explosives, explosive materials, 40492  
or any similar hazardous materials or substances. A representative 40493  
sample showroom shall be used only for the public viewing of 40494  
fireworks product representations, including paper materials, 40495  
packaging materials, catalogs, photographs, or other similar 40496  
product depictions. The delivery of product to a purchaser of 40497  
fireworks at a licensed premises that has a representative sample 40498  
structure shall not occur inside any structure on a licensed 40499  
premises. Such product delivery shall occur on the licensed 40500  
premises in a manner prescribed by rules adopted by the state fire 40501  
marshal pursuant to Chapter 119. of the Revised Code. 40502

If a manufacturer or wholesaler elects to conduct sales from 40503  
a retail sales showroom, the showroom structures, to which the 40504  
public may have any access and in which employees are required to 40505  
work, on all licensed premises, shall comply with the following 40506  
safety requirements: 40507

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~labor~~ industrial compliance in the department of commerce.

(2) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed five thousand square feet in floor area.

(3) A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

**Sec. 3745.01.** There is hereby created the environmental protection agency, headed by the director of environmental

protection. The agency, under the supervision of the director, 40539  
shall administer the laws pertaining to chemical emergency 40540  
planning, community right-to-know, and toxic chemical release 40541  
reporting; the cessation of chemical handling operations; the 40542  
prevention, control, and abatement of air and water pollution; 40543  
public water supply; comprehensive water resource management 40544  
planning; products that contain mercury as defined in section 40545  
3734.61 of the Revised Code; and the disposal and treatment of 40546  
solid wastes, infectious wastes, construction and demolition 40547  
debris, hazardous waste, sewage, industrial waste, and other 40548  
wastes. The director may do all of the following: 40549

(A) Provide such methods of administration, appoint such 40550  
personnel, make such reports, and take such other action as may be 40551  
necessary to comply with the requirements of the federal laws and 40552  
regulations pertaining to chemical emergency planning, community 40553  
right-to-know, and toxic chemical release reporting; air and water 40554  
pollution control; public water supply; water resource planning; 40555  
and waste disposal and treatment; 40556

(B) Procure by contract the temporary or intermittent 40557  
services of experts or consultants, or organizations thereof, when 40558  
those services are to be performed on a part-time or 40559  
fee-for-service basis and do not involve the performance of 40560  
administrative duties; 40561

(C) Advise, consult, cooperate, and enter into contracts or 40562  
agreements, including consensual administrative order agreements, 40563  
with any other agencies of the state, the federal government, 40564  
other states, ~~and~~ interstate agencies, and persons and with 40565  
affected groups, political subdivisions, and industries in 40566  
furtherance of the purposes of this chapter and Chapters 3704., 40567  
3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code; 40568

(D) Establish advisory boards in accordance with section 40569  
121.13 of the Revised Code; 40570

(E) Accept on behalf of the state any grant, gift, or contribution made for toxic chemical release reporting, air or water pollution control, public water supply, water resource planning, waste disposal or treatment, or related purposes, and expend it for those purposes;

(F) Make an annual report to the governor and the general assembly on activities and expenditures as well as recommendations for such additional legislation as the director considers appropriate to carry out the director's duties or accomplish the purposes of this section;

(G) Enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and grant or accept easements or sell real property pursuant to section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as applicable.

The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that the utilization is practicable, economical, and technically satisfactory.

The director shall maintain and keep available for public inspection, at the director's principal office, a current register of all applications filed for permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under the director's jurisdiction, hearings pending, the director's final action thereon, and the dates on which the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with the director under

Chapter 3751. of the Revised Code and rules adopted under it, 40603  
subject to the requirements of those chapters and rules adopted 40604  
under them for the protection of trade secrets and confidential 40605  
business information from disclosure to persons not authorized 40606  
under those laws to receive trade secret or confidential business 40607  
information. 40608

**Sec. 3745.11.** (A) Applicants for and holders of permits, 40609  
licenses, variances, plan approvals, and certifications issued by 40610  
the director of environmental protection pursuant to Chapters 40611  
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 40612  
to the environmental protection agency for each such issuance and 40613  
each application for an issuance as provided by this section. No 40614  
fee shall be charged for any issuance for which no application has 40615  
been submitted to the director. 40616

~~(B) Each person who is issued a permit to install prior to 40617  
July 1, 2003, pursuant to rules adopted under division (F) of 40618  
section 3704.03 of the Revised Code shall pay the fees specified 40619  
in the following schedules: 40620~~

| <del>(1) Fuel burning equipment (boilers)</del>     |                              | 40621 |
|---|------------------------------|-------|
| <del>Input capacity (maximum)</del>                 |                              | 40622 |
| <del>(million British thermal units per hour)</del> | <del>Permit to install</del> | 40623 |
| <del>Greater than 0, but less than 10</del>         | <del>\$ 200</del>            | 40624 |
| <del>10 or more, but less than 100</del>            | <del>400</del>               | 40625 |
| <del>100 or more, but less than 300</del>           | <del>800</del>               | 40626 |
| <del>300 or more, but less than 500</del>           | <del>1500</del>              | 40627 |
| <del>500 or more, but less than 1000</del>          | <del>2500</del>              | 40628 |
| <del>1000 or more, but less than 5000</del>         | <del>4000</del>              | 40629 |
| <del>5000 or more</del>                             | <del>6000</del>              | 40630 |

~~Units burning exclusively natural gas, number two fuel oil, 40631  
or both shall be assessed a fee that is one half of the applicable 40632  
amount established in division (F)(1) of this section. 40633~~

|   |                              |       |
|---|------------------------------|-------|
| <del>(2) Incinerators</del>   |                              | 40634 |
| <del>Input capacity (pounds per hour)</del>   | <del>Permit to install</del> | 40635 |
| <del>0 to 100</del>   | <del>\$ 100</del>            | 40636 |
| <del>101 to 500</del>   | <del>400</del>               | 40637 |
| <del>501 to 2000</del>  | <del>750</del>               | 40638 |
| <del>2001 to 20,000</del>   | <del>1000</del>              | 40639 |
| <del>more than 20,000</del>   | <del>2500</del>              | 40640 |
| <del>(3)(a) Process</del>   |                              | 40641 |
| <del>Process weight rate (pounds per hour)</del>  | <del>Permit to install</del> | 40642 |
| <del>0 to 1000</del>  | <del>\$ 200</del>            | 40643 |
| <del>1001 to 5000</del>   | <del>400</del>               | 40644 |
| <del>5001 to 10,000</del>   | <del>600</del>               | 40645 |
| <del>10,001 to 50,000</del>   | <del>800</del>               | 40646 |
| <del>more than 50,000</del>   | <del>1000</del>              | 40647 |
| <del>In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.</del>   |                              | 40648 |
| <del>In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.</del>   |                              | 40649 |
| <del>(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del> |                              | 40650 |
| <del>person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del>   |                              | 40651 |
| <del>division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del>   |                              | 40652 |
| <del>fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del>   |                              | 40653 |
| <del>process used in any of the following industries, as identified by the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del>  |                              | 40654 |
| <del>the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del>  |                              | 40655 |
| <del>according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del>  |                              | 40656 |
| <del>published by the United States office of management and budget in the executive office of the president, 1972, as revised:</del>   |                              | 40657 |
| <del>the executive office of the president, 1972, as revised:</del>   |                              | 40658 |
| <del>1211 Bituminous coal and lignite mining;</del>   |                              | 40659 |
| <del>1213 Bituminous coal and lignite mining services;</del>  |                              | 40660 |
| <del>1411 Dimension stone;</del>  |                              | 40661 |
| <del>1422 Crushed and broken limestone;</del>   |                              | 40662 |
| <del>1427 Crushed and broken stone, not elsewhere classified;</del>   |                              | 40663 |

|  |                              |       |
|--|------------------------------|-------|
| <del>1442 Construction sand and gravel;</del>                              |                              | 40664 |
| <del>1446 Industrial sand;</del>   |                              | 40665 |
| <del>3281 Cut stone and stone products;</del>                              |                              | 40666 |
| <del>3295 Minerals and earth, ground or otherwise treated.</del>           |                              | 40667 |
| <del>(c) The fees established in the following schedule apply to</del>     |                              | 40668 |
| <del>the issuance of a permit to install pursuant to rules adopted</del>   |                              | 40669 |
| <del>under division (F) of section 3704.03 of the Revised Code for a</del> |                              | 40670 |
| <del>process listed in division (B)(3)(b) of this section:</del>           |                              | 40671 |
| <del>Process weight rate (pounds per hour)</del>                           | <del>Permit to install</del> | 40672 |
| <del>0 to 1000</del>   | <del>\$ 200</del>            | 40673 |
| <del>10,001 to 50,000</del>  | <del>300</del>               | 40674 |
| <del>50,001 to 100,000</del>   | <del>400</del>               | 40675 |
| <del>100,001 to 200,000</del>  | <del>500</del>               | 40676 |
| <del>200,001 to 400,000</del>  | <del>600</del>               | 40677 |
| <del>400,001 or more</del>   | <del>700</del>               | 40678 |
| <del>(4) Storage tanks</del>   |                              | 40679 |
| <del>Gallons (maximum useful capacity)</del>                               | <del>Permit to install</del> | 40680 |
| <del>0 to 20,000</del>   | <del>\$ 100</del>            | 40681 |
| <del>20,001 to 40,000</del>  | <del>150</del>               | 40682 |
| <del>40,001 to 100,000</del>   | <del>200</del>               | 40683 |
| <del>100,001 to 250,000</del>  | <del>250</del>               | 40684 |
| <del>250,001 to 500,000</del>  | <del>350</del>               | 40685 |
| <del>500,001 to 1,000,000</del>  | <del>500</del>               | 40686 |
| <del>1,000,001 or greater</del>  | <del>750</del>               | 40687 |
| <del>(5) Gasoline/fuel dispensing facilities</del>                         |                              | 40688 |
| <del>For each gasoline/fuel dispensing</del>                               | <del>Permit to install</del> | 40689 |
| <del>facility</del>  | <del>\$ 100</del>            | 40690 |
| <del>(6) Dry cleaning facilities</del>                                     |                              | 40691 |
| <del>For each dry cleaning facility</del>                                  | <del>Permit to install</del> | 40692 |
| <del>(includes all units at the facility)</del>                            | <del>\$ 100</del>            | 40693 |

~~(7) Registration status~~ 40694  
For each source covered Permit to install 40695  
by registration status \$ 75 40696

~~(C)(1)~~ Except as otherwise provided in division (C)(2) of 40697  
this section, beginning July 1, 1994, each person who owns or 40698  
operates an air contaminant source and who is required to apply 40699  
for and obtain a Title V permit under section 3704.036 of the 40700  
Revised Code shall pay the fees set forth in this division ~~(C)(1)~~ 40701  
~~of this section~~. For the purposes of ~~that~~ this division, total 40702  
emissions of air contaminants may be calculated using engineering 40703  
calculations, emissions factors, material balance calculations, or 40704  
performance testing procedures, as authorized by the director. 40705

The following fees shall be assessed on the total actual 40706  
emissions from a source in tons per year of the regulated 40707  
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 40708  
organic compounds, and lead: 40709

~~(a)(1)~~ Fifteen dollars per ton on the total actual emissions 40710  
of each such regulated pollutant during the period July through 40711  
December 1993, to be collected no sooner than July 1, 1994; 40712

~~(b)(2)~~ Twenty dollars per ton on the total actual emissions 40713  
of each such regulated pollutant during calendar year 1994, to be 40714  
collected no sooner than April 15, 1995; 40715

~~(c)(3)~~ Twenty-five dollars per ton on the total actual 40716  
emissions of each such regulated pollutant in calendar year 1995, 40717  
and each subsequent calendar year, to be collected no sooner than 40718  
the fifteenth day of April of the year next succeeding the 40719  
calendar year in which the emissions occurred. 40720

The fees levied under this division ~~(C)(1) of this section~~ do 40721  
not apply to that portion of the emissions of a regulated 40722  
pollutant at a facility that exceed four thousand tons during a 40723  
calendar year. 40724

~~(2)(C)(1)~~ The fees assessed under division ~~(C)(1)(B)~~ of this 40725  
section are for the purpose of providing funding for the Title V 40726  
permit program. 40727

~~(3)(2)~~ The fees assessed under division ~~(C)(1)(B)~~ of this 40728  
section do not apply to emissions from any electric generating 40729  
unit designated as a Phase I unit under Title IV of the federal 40730  
Clean Air Act prior to calendar year 2000. Those fees shall be 40731  
assessed on the emissions from such a generating unit commencing 40732  
in calendar year 2001 based upon the total actual emissions from 40733  
the generating unit during calendar year 2000 and shall continue 40734  
to be assessed each subsequent calendar year based on the total 40735  
actual emissions from the generating unit during the preceding 40736  
calendar year. 40737

~~(4)(3)~~ The director shall issue invoices to owners or 40738  
operators of air contaminant sources who are required to pay a fee 40739  
assessed under division ~~(C)(B)~~ or (D) of this section. Any such 40740  
invoice shall be issued no sooner than the applicable date when 40741  
the fee first may be collected in a year under the applicable 40742  
division, shall identify the nature and amount of the fee 40743  
assessed, and shall indicate that the fee is required to be paid 40744  
within thirty days after the issuance of the invoice. 40745

(D)(1) Except as provided in division (D)(3) of this section, 40746  
from January 1, 1994, through December 31, 2003, each person who 40747  
owns or operates an air contaminant source; who is required to 40748  
apply for a permit to operate pursuant to rules adopted under 40749  
division (G), or a variance pursuant to division (H), of section 40750  
3704.03 of the Revised Code; and who is not required to apply for 40751  
and obtain a Title V permit under section 3704.036 of the Revised 40752  
Code shall pay a single fee based upon the sum of the actual 40753  
annual emissions from the facility of the regulated pollutants 40754  
particulate matter, sulfur dioxide, nitrogen oxides, organic 40755  
compounds, and lead in accordance with the following schedule: 40756

|                               |              |       |
|-------------------------------|--------------|-------|
| Total tons per year           |              | 40757 |
| of regulated pollutants       | Annual fee   | 40758 |
| emitted                       | per facility | 40759 |
| More than 0, but less than 50 | \$ 75        | 40760 |
| 50 or more, but less than 100 | 300          | 40761 |
| 100 or more                   | 700          | 40762 |

(2) Except as provided in division (D)(3) of this section, 40763  
beginning January 1, 2004, each person who owns or operates an air 40764  
contaminant source; who is required to apply for a permit to 40765  
operate pursuant to rules adopted under division (G), or a 40766  
variance pursuant to division (H), of section 3704.03 of the 40767  
Revised Code; and who is not required to apply for and obtain a 40768  
Title V permit under section 3704.03 of the Revised Code shall pay 40769  
a single fee based upon the sum of the actual annual emissions 40770  
from the facility of the regulated pollutants particulate matter, 40771  
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 40772  
accordance with the following schedule: 40773

|                               |              |       |
|-------------------------------|--------------|-------|
| Total tons per year           |              | 40774 |
| of regulated pollutants       | Annual fee   | 40775 |
| emitted                       | per facility | 40776 |
| More than 0, but less than 10 | \$ 100       | 40777 |
| 10 or more, but less than 50  | 200          | 40778 |
| 50 or more, but less than 100 | 300          | 40779 |
| 100 or more                   | 700          | 40780 |

(3)(a) As used in division (D) of this section, "synthetic 40781  
minor facility" means a facility for which one or more permits to 40782  
install or permits to operate have been issued for the air 40783  
contaminant sources at the facility that include terms and 40784  
conditions that lower the facility's potential to emit air 40785  
contaminants below the major source thresholds established in 40786  
rules adopted under section 3704.036 of the Revised Code. 40787

(b) Beginning January 1, 2000, through June 30, 2014, each 40788

person who owns or operates a synthetic minor facility shall pay 40789  
an annual fee based on the sum of the actual annual emissions from 40790  
the facility of particulate matter, sulfur dioxide, nitrogen 40791  
dioxide, organic compounds, and lead in accordance with the 40792  
following schedule: 40793

| Combined total tons 40794           |              |  |
|-------------------------------------|--------------|--|
| per year of all regulated 40795     | Annual fee   |  |
| pollutants emitted 40796            | per facility |  |
| Less than 10 40797                  | \$ 170       |  |
| 10 or more, but less than 20 40798  | 340          |  |
| 20 or more, but less than 30 40799  | 670          |  |
| 30 or more, but less than 40 40800  | 1,010        |  |
| 40 or more, but less than 50 40801  | 1,340        |  |
| 50 or more, but less than 60 40802  | 1,680        |  |
| 60 or more, but less than 70 40803  | 2,010        |  |
| 70 or more, but less than 80 40804  | 2,350        |  |
| 80 or more, but less than 90 40805  | 2,680        |  |
| 90 or more, but less than 100 40806 | 3,020        |  |
| 100 or more 40807                   | 3,350        |  |

(4) The fees assessed under division (D)(1) of this section 40808  
shall be collected annually no sooner than the fifteenth day of 40809  
April, commencing in 1995. The fees assessed under division (D)(2) 40810  
of this section shall be collected annually no sooner than the 40811  
fifteenth day of April, commencing in 2005. The fees assessed 40812  
under division (D)(3) of this section shall be collected no sooner 40813  
than the fifteenth day of April, commencing in 2000. The fees 40814  
assessed under division (D) of this section in a calendar year 40815  
shall be based upon the sum of the actual emissions of those 40816  
regulated pollutants during the preceding calendar year. For the 40817  
purpose of division (D) of this section, emissions of air 40818  
contaminants may be calculated using engineering calculations, 40819  
emission factors, material balance calculations, or performance 40820  
testing procedures, as authorized by the director. The director, 40821

by rule, may require persons who are required to pay the fees 40822  
assessed under division (D) of this section to pay those fees 40823  
biennially rather than annually. 40824

(E)(1) Consistent with the need to cover the reasonable costs 40825  
of the Title V permit program, the director annually shall 40826  
increase the fees prescribed in division ~~(C)(1)~~(B) of this section 40827  
by the percentage, if any, by which the consumer price index for 40828  
the most recent calendar year ending before the beginning of a 40829  
year exceeds the consumer price index for calendar year 1989. Upon 40830  
calculating an increase in fees authorized by division (E)(1) of 40831  
this section, the director shall compile revised fee schedules for 40832  
the purposes of division ~~(C)(1)~~(B) of this section and shall make 40833  
the revised schedules available to persons required to pay the 40834  
fees assessed under that division and to the public. 40835

(2) For the purposes of division (E)(1) of this section: 40836

(a) The consumer price index for any year is the average of 40837  
the consumer price index for all urban consumers published by the 40838  
United States department of labor as of the close of the 40839  
twelve-month period ending on the thirty-first day of August of 40840  
that year. 40841

(b) If the 1989 consumer price index is revised, the director 40842  
shall use the revision of the consumer price index that is most 40843  
consistent with that for calendar year 1989. 40844

(F) Each person who is issued a permit to install pursuant to 40845  
rules adopted under division (F) of section 3704.03 of the Revised 40846  
Code on or after July 1, 2003, shall pay the fees specified in the 40847  
following schedules: 40848

(1) Fuel-burning equipment (boilers, furnaces, or process 40849  
heaters used in the process of burning fuel for the primary 40850  
purpose of producing heat or power by indirect heat transfer) 40851  
Input capacity (maximum) 40852

|  |                   |       |
|--|-------------------|-------|
| (million British thermal units per hour) | Permit to install | 40853 |
| Greater than 0, but less than 10         | \$ 200            | 40854 |
| 10 or more, but less than 100            | 400               | 40855 |
| 100 or more, but less than 300           | 1000              | 40856 |
| 300 or more, but less than 500           | 2250              | 40857 |
| 500 or more, but less than 1000          | 3750              | 40858 |
| 1000 or more, but less than 5000         | 6000              | 40859 |
| 5000 or more                             | 9000              | 40860 |

Units burning exclusively natural gas, number two fuel oil,  
or both shall be assessed a fee that is one-half the applicable  
amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion  
engines designed to generate electricity

|                                  |                   |       |
|----------------------------------|-------------------|-------|
| Generating capacity (mega watts) | Permit to install | 40866 |
| 0 or more, but less than 10      | \$ 25             | 40867 |
| 10 or more, but less than 25     | 150               | 40868 |
| 25 or more, but less than 50     | 300               | 40869 |
| 50 or more, but less than 100    | 500               | 40870 |
| 100 or more, but less than 250   | 1000              | 40871 |
| 250 or more                      | 2000              | 40872 |

(3) Incinerators

|                                  |                   |       |
|----------------------------------|-------------------|-------|
| Input capacity (pounds per hour) | Permit to install | 40874 |
| 0 to 100                         | \$ 100            | 40875 |
| 101 to 500                       | 500               | 40876 |
| 501 to 2000                      | 1000              | 40877 |
| 2001 to 20,000                   | 1500              | 40878 |
| more than 20,000                 | 3750              | 40879 |

(4)(a) Process

|                                       |                   |       |
|---------------------------------------|-------------------|-------|
| Process weight rate (pounds per hour) | Permit to install | 40881 |
| 0 to 1000                             | \$ 200            | 40882 |
| 1001 to 5000                          | 500               | 40883 |
| 5001 to 10,000                        | 750               | 40884 |

|                  |      |       |
|------------------|------|-------|
| 10,001 to 50,000 | 1000 | 40885 |
| more than 50,000 | 1250 | 40886 |

In any process where process weight rate cannot be 40887  
ascertained, the minimum fee shall be assessed. A boiler, furnace, 40888  
combustion turbine, stationary internal combustion engine, or 40889  
process heater designed to provide direct heat or power to a 40890  
process not designed to generate electricity shall be assessed a 40891  
fee established in division (F)(4)(a) of this section. A 40892  
combustion turbine or stationary internal combustion engine 40893  
designed to generate electricity shall be assessed a fee 40894  
established in division (F)(2) of this section. 40895

(b) Notwithstanding division (F)(4)(a) of this section, any 40896  
person issued a permit to install pursuant to rules adopted under 40897  
division (F) of section 3704.03 of the Revised Code shall pay the 40898  
fees set forth in division (F)(4)(c) of this section for a process 40899  
used in any of the following industries, as identified by the 40900  
applicable two-digit, three-digit, or four-digit standard 40901  
industrial classification code according to the Standard 40902  
Industrial Classification Manual published by the United States 40903  
office of management and budget in the executive office of the 40904  
president, 1987, as revised: 40905

Major group 10, metal mining; 40906

Major group 12, coal mining; 40907

Major group 14, mining and quarrying of nonmetallic minerals; 40908

Industry group 204, grain mill products; 40909

2873 Nitrogen fertilizers; 40910

2874 Phosphatic fertilizers; 40911

3281 Cut stone and stone products; 40912

3295 Minerals and earth, ground or otherwise treated; 40913

4221 Grain elevators (storage only); 40914

|   |                   |       |
|---|-------------------|-------|
| 5159 Farm related raw materials;                                  |                   | 40915 |
| 5261 Retail nurseries and lawn and garden supply stores.          |                   | 40916 |
| (c) The fees set forth in the following schedule apply to the     |                   | 40917 |
| issuance of a permit to install pursuant to rules adopted under   |                   | 40918 |
| division (F) of section 3704.03 of the Revised Code for a process |                   | 40919 |
| identified in division (F)(4)(b) of this section:                 |                   | 40920 |
| Process weight rate (pounds per                                   | Permit to install | 40921 |
| hour)   |                   |       |
| 0 to 10,000   | \$ 200            | 40922 |
| 10,001 to 50,000  | 400               | 40923 |
| 50,001 to 100,000   | 500               | 40924 |
| 100,001 to 200,000  | 600               | 40925 |
| 200,001 to 400,000  | 750               | 40926 |
| 400,001 or more   | 900               | 40927 |
| (5) Storage tanks   |                   | 40928 |
| Gallons (maximum useful capacity)                                 | Permit to install | 40929 |
| 0 to 20,000   | \$ 100            | 40930 |
| 20,001 to 40,000  | 150               | 40931 |
| 40,001 to 100,000   | 250               | 40932 |
| 100,001 to 500,000  | 400               | 40933 |
| 500,001 or greater  | 750               | 40934 |
| (6) Gasoline/fuel dispensing facilities                           |                   | 40935 |
| For each gasoline/fuel  |                   | 40936 |
| dispensing facility (includes all                                 | Permit to install | 40937 |
| units at the facility)  | \$ 100            | 40938 |
| (7) Dry cleaning facilities                                       |                   | 40939 |
| For each dry cleaning   |                   | 40940 |
| facility (includes all units                                      | Permit to install | 40941 |
| at the facility)  | \$ 100            | 40942 |
| (8) Registration status   |                   | 40943 |
| For each source covered   | Permit to install | 40944 |

by registration status \$ 75 40945

(G) An owner or operator who is responsible for an asbestos 40946  
demolition or renovation project pursuant to rules adopted under 40947  
section 3704.03 of the Revised Code shall pay the fees set forth 40948  
in the following schedule: 40949

| Action            | Fee            |       |
|-------------------|----------------|-------|
| Each notification | \$75           | 40951 |
| Asbestos removal  | \$3/unit       | 40952 |
| Asbestos cleanup  | \$4/cubic yard | 40953 |

For purposes of this division, "unit" means any combination of 40954  
linear feet or square feet equal to fifty. 40955

(H) A person who is issued an extension of time for a permit 40956  
to install an air contaminant source pursuant to rules adopted 40957  
under division (F) of section 3704.03 of the Revised Code shall 40958  
pay a fee equal to one-half the fee originally assessed for the 40959  
permit to install under this section, except that the fee for such 40960  
an extension shall not exceed two hundred dollars. 40961

(I) A person who is issued a modification to a permit to 40962  
install an air contaminant source pursuant to rules adopted under 40963  
section 3704.03 of the Revised Code shall pay a fee equal to 40964  
one-half of the fee that would be assessed under this section to 40965  
obtain a permit to install the source. The fee assessed by this 40966  
division only applies to modifications that are initiated by the 40967  
owner or operator of the source and shall not exceed two thousand 40968  
dollars. 40969

(J) Notwithstanding division ~~(B)~~ (F) of this section, a 40970  
person who applies for or obtains a permit to install pursuant to 40971  
rules adopted under division (F) of section 3704.03 of the Revised 40972  
Code after the date actual construction of the source began shall 40973  
pay a fee for the permit to install that is equal to twice the fee 40974  
that otherwise would be assessed under the applicable division 40975  
unless the applicant received authorization to begin construction 40976

under division (W) of section 3704.03 of the Revised Code. This 40977  
division only applies to sources for which actual construction of 40978  
the source begins on or after July 1, 1993. The imposition or 40979  
payment of the fee established in this division does not preclude 40980  
the director from taking any administrative or judicial 40981  
enforcement action under this chapter, Chapter 3704., 3714., 40982  
3734., or 6111. of the Revised Code, or a rule adopted under any 40983  
of them, in connection with a violation of rules adopted under 40984  
division (F) of section 3704.03 of the Revised Code. 40985

As used in this division, "actual construction of the source" 40986  
means the initiation of physical on-site construction activities 40987  
in connection with improvements to the source that are permanent 40988  
in nature, including, without limitation, the installation of 40989  
building supports and foundations and the laying of underground 40990  
pipework. 40991

(K) Fifty (1) Money received under division (B) of this 40992  
section shall be deposited in the state treasury to the credit of 40993  
the Title V clean air fund created in section 3704.035 of the 40994  
Revised Code. Annually, fifty cents per ton of each fee assessed 40995  
under division ~~(C)~~(B) of this section on actual emissions from a 40996  
source and received by the environmental protection agency 40997  
pursuant to that division shall be ~~deposited into~~ transferred 40998  
using an interstate transfer voucher to the state treasury to the 40999  
credit of the small business assistance fund created in section 41000  
3706.19 of the Revised Code. ~~The remainder of the moneys~~ In 41001  
addition, annually, the amount of money necessary for the 41002  
operation of the office of ombudsperson as determined under 41003  
division (B) of that section shall be transferred to the state 41004  
treasury to the credit of the small business ombudsperson fund 41005  
created by that section. 41006

~~(2) Money received by the division pursuant to that division~~ 41007  
~~and moneys received by the agency pursuant to divisions (D), (F),~~ 41008

(G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the non-Title V clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

| Design flow discharge (gallons per day) | Fee  |
|---|------|
| 0 to 1000                               | \$ 0 |
| 1,001 to 5000                           | 100  |
| 5,001 to 50,000                         | 200  |
| 50,001 to 100,000                       | 300  |
| 100,001 to 300,000                      | 525  |
| over 300,000                            | 750  |

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, 2014, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and

after July 1, 2014, except that the total fee shall not exceed 41041  
fifteen thousand dollars through June 30, 2014, and five thousand 41042  
dollars on and after July 1, 2014. The fee shall be paid at the 41043  
time the application is submitted. 41044

(3) A person issued a modification of a water discharge 41045  
permit shall pay a fee equal to one-half the fee that otherwise 41046  
would be charged for a water discharge permit, except that the fee 41047  
for the modification shall not exceed four hundred dollars. 41048

(4) A person who has entered into an agreement with the 41049  
director under section 6111.14 of the Revised Code shall pay an 41050  
administrative service fee for each plan submitted under that 41051  
section for approval that shall not exceed the minimum amount 41052  
necessary to pay administrative costs directly attributable to 41053  
processing plan approvals. The director annually shall calculate 41054  
the fee and shall notify all persons who have entered into 41055  
agreements under that section, or who have applied for agreements, 41056  
of the amount of the fee. 41057

(5)(a)(i) Not later than January 30, 2012, and January 30, 41058  
2013, a person holding an NPDES discharge permit issued pursuant 41059  
to Chapter 6111. of the Revised Code with an average daily 41060  
discharge flow of five thousand gallons or more shall pay a 41061  
nonrefundable annual discharge fee. Any person who fails to pay 41062  
the fee at that time shall pay an additional amount that equals 41063  
ten per cent of the required annual discharge fee. 41064

(ii) The billing year for the annual discharge fee 41065  
established in division (L)(5)(a)(i) of this section shall consist 41066  
of a twelve-month period beginning on the first day of January of 41067  
the year preceding the date when the annual discharge fee is due. 41068  
In the case of an existing source that permanently ceases to 41069  
discharge during a billing year, the director shall reduce the 41070  
annual discharge fee, including the surcharge applicable to 41071  
certain industrial facilities pursuant to division (L)(5)(c) of 41072

this section, by one-twelfth for each full month during the 41073  
billing year that the source was not discharging, but only if the 41074  
person holding the NPDES discharge permit for the source notifies 41075  
the director in writing, not later than the first day of October 41076  
of the billing year, of the circumstances causing the cessation of 41077  
discharge. 41078

(iii) The annual discharge fee established in division 41079  
(L)(5)(a)(i) of this section, except for the surcharge applicable 41080  
to certain industrial facilities pursuant to division (L)(5)(c) of 41081  
this section, shall be based upon the average daily discharge flow 41082  
in gallons per day calculated using first day of May through 41083  
thirty-first day of October flow data for the period two years 41084  
prior to the date on which the fee is due. In the case of NPDES 41085  
discharge permits for new sources, the fee shall be calculated 41086  
using the average daily design flow of the facility until actual 41087  
average daily discharge flow values are available for the time 41088  
period specified in division (L)(5)(a)(iii) of this section. The 41089  
annual discharge fee may be prorated for a new source as described 41090  
in division (L)(5)(a)(ii) of this section. 41091

(b) An NPDES permit holder that is a public discharger shall 41092  
pay the fee specified in the following schedule: 41093

| Average daily            | Fee due by       |       |
|--------------------------|------------------|-------|
| discharge flow           | January 30,      |       |
|                          | 2012, and        |       |
|                          | January 30, 2013 |       |
| 5,000 to 49,999          | \$ 200           | 41098 |
| 50,000 to 100,000        | 500              | 41099 |
| 100,001 to 250,000       | 1,050            | 41100 |
| 250,001 to 1,000,000     | 2,600            | 41101 |
| 1,000,001 to 5,000,000   | 5,200            | 41102 |
| 5,000,001 to 10,000,000  | 10,350           | 41103 |
| 10,000,001 to 20,000,000 | 15,550           | 41104 |

|                           |        |       |
|---------------------------|--------|-------|
| 20,000,001 to 50,000,000  | 25,900 | 41105 |
| 50,000,001 to 100,000,000 | 41,400 | 41106 |
| 100,000,001 or more       | 62,100 | 41107 |

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

| Average daily discharge flow | Fee due by January 30, 2012, and January 30, 2013 |       |
|------------------------------|---|-------|
| 5,000 to 49,999              | \$ 250  | 41124 |
| 50,000 to 250,000            | 1,200   | 41125 |
| 250,001 to 1,000,000         | 2,950   | 41126 |
| 1,000,001 to 5,000,000       | 5,850   | 41127 |
| 5,000,001 to 10,000,000      | 8,800   | 41128 |
| 10,000,001 to 20,000,000     | 11,700  | 41129 |
| 20,000,001 to 100,000,000    | 14,050  | 41130 |
| 100,000,001 to 250,000,000   | 16,400  | 41131 |
| 250,000,001 or more          | 18,700  | 41132 |

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 41137  
hundred dollars not later than January 30, 2012, and not later 41138  
than January 30, 2013. Any person who fails to pay the surcharge 41139  
at that time shall pay an additional amount that equals ten per 41140  
cent of the amount of the surcharge. 41141

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 41142  
section, a public discharger identified by I in the third 41143  
character of the permittee's NPDES permit number and an industrial 41144  
discharger identified by I, J, L, V, W, X, Y, or Z in the third 41145  
character of the permittee's NPDES permit number shall pay a 41146  
nonrefundable annual discharge fee of one hundred eighty dollars 41147  
not later than January 30, 2012, and not later than January 30, 41148  
2013. Any person who fails to pay the fee at that time shall pay 41149  
an additional amount that equals ten per cent of the required fee. 41150

(6) Each person obtaining a national pollutant discharge 41151  
elimination system general or individual permit for municipal 41152  
storm water discharge shall pay a nonrefundable storm water 41153  
discharge fee of one hundred dollars per square mile of area 41154  
permitted. The fee shall not exceed ten thousand dollars and shall 41155  
be payable on or before January 30, 2004, and the thirtieth day of 41156  
January of each year thereafter. Any person who fails to pay the 41157  
fee on the date specified in division (L)(6) of this section shall 41158  
pay an additional amount per year equal to ten per cent of the 41159  
annual fee that is unpaid. 41160

(7) The director shall transmit all moneys collected under 41161  
division (L) of this section to the treasurer of state for deposit 41162  
into the state treasury to the credit of the surface water 41163  
protection fund created in section 6111.038 of the Revised Code. 41164

(8) As used in division (L) of this section: 41165

(a) "NPDES" means the federally approved national pollutant 41166  
discharge elimination system program for issuing, modifying, 41167

revoking, reissuing, terminating, monitoring, and enforcing 41168  
permits and imposing and enforcing pretreatment requirements under 41169  
Chapter 6111. of the Revised Code and rules adopted under it. 41170

(b) "Public discharger" means any holder of an NPDES permit 41171  
identified by P in the second character of the NPDES permit number 41172  
assigned by the director. 41173

(c) "Industrial discharger" means any holder of an NPDES 41174  
permit identified by I in the second character of the NPDES permit 41175  
number assigned by the director. 41176

(d) "Major discharger" means any holder of an NPDES permit 41177  
classified as major by the regional administrator of the United 41178  
States environmental protection agency in conjunction with the 41179  
director. 41180

(M) Through June 30, 2014, a person applying for a license or 41181  
license renewal to operate a public water system under section 41182  
6109.21 of the Revised Code shall pay the appropriate fee 41183  
established under this division at the time of application to the 41184  
director. Any person who fails to pay the fee at that time shall 41185  
pay an additional amount that equals ten per cent of the required 41186  
fee. The director shall transmit all moneys collected under this 41187  
division to the treasurer of state for deposit into the drinking 41188  
water protection fund created in section 6109.30 of the Revised 41189  
Code. 41190

Except as provided in division (M)(4) of this section, fees 41191  
required under this division shall be calculated and paid in 41192  
accordance with the following schedule: 41193

(1) For the initial license required under ~~division (A)(1) of~~ 41194  
section 6109.21 of the Revised Code for any public water system 41195  
that is a community water system as defined in section 6109.01 of 41196  
the Revised Code, and for each license renewal required for such a 41197  
system prior to January 31, 2014, the fee is: 41198

|  |                             |       |
|--|-----------------------------|-------|
| Number of service connections  | Fee amount                  | 41199 |
| Not more than 49   | \$ 112                      | 41200 |
| 50 to 99   | 176                         | 41201 |
| Number of service connections  | Average cost per connection | 41202 |
| 100 to 2,499   | \$ 1.92                     | 41203 |
| 2,500 to 4,999   | 1.48                        | 41204 |
| 5,000 to 7,499   | 1.42                        | 41205 |
| 7,500 to 9,999   | 1.34                        | 41206 |
| 10,000 to 14,999   | 1.16                        | 41207 |
| 15,000 to 24,999   | 1.10                        | 41208 |
| 25,000 to 49,999   | 1.04                        | 41209 |
| 50,000 to 99,999   | .92                         | 41210 |
| 100,000 to 149,999   | .86                         | 41211 |
| 150,000 to 199,999   | .80                         | 41212 |
| 200,000 or more  | .76                         | 41213 |
| A public water system may determine how it will pay the total            |                             | 41214 |
| amount of the fee calculated under division (M)(1) of this               |                             | 41215 |
| section, including the assessment of additional user fees that may       |                             | 41216 |
| be assessed on a volumetric basis.                                       |                             | 41217 |
| As used in division (M)(1) of this section, "service                     |                             | 41218 |
| connection" means the number of active or inactive pipes,                |                             | 41219 |
| goosenecks, pigtails, and any other fittings connecting a water          |                             | 41220 |
| main to any building outlet.   |                             | 41221 |
| (2) For the initial license required under <del>division (A)(2) of</del> |                             | 41222 |
| section 6109.21 of the Revised Code for any public water system          |                             | 41223 |
| that is not a community water system and serves a nontransient           |                             | 41224 |
| population, and for each license renewal required for such a             |                             | 41225 |
| system prior to January 31, 2014, the fee is:                            |                             | 41226 |
| Population served  | Fee amount                  | 41227 |
| Fewer than 150   | \$ 112                      | 41228 |
| 150 to 299   | 176                         | 41229 |
| 300 to 749   | 384                         | 41230 |

|                  |        |       |
|------------------|--------|-------|
| 750 to 1,499     | 628    | 41231 |
| 1,500 to 2,999   | 1,268  | 41232 |
| 3,000 to 7,499   | 2,816  | 41233 |
| 7,500 to 14,999  | 5,510  | 41234 |
| 15,000 to 22,499 | 9,048  | 41235 |
| 22,500 to 29,999 | 12,430 | 41236 |
| 30,000 or more   | 16,820 | 41237 |

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under ~~division (A)(3) of~~ section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

| Number of wells or sources, other than surface water, supplying system | Fee amount |                |
|--|------------|----------------|
| 1  | \$112      | 41250          |
| 2  | 112        | 41251          |
| 3  | 176        | 41252          |
| 4  | 278        | 41253          |
| 5  | 568        | 41254          |
| System designated as using a surface water source                      | 792        | 41255<br>41256 |

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water

source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, 2014, and fifteen thousand dollars on and after July 1, 2014. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, 2014, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

|                  |         |       |
|------------------|---------|-------|
| microbiological  |         | 41288 |
| MMO-MUG          | \$2,000 | 41289 |
| MF               | 2,100   | 41290 |
| MMO-MUG and MF   | 2,550   | 41291 |
| organic chemical | 5,400   | 41292 |
| trace metals     | 5,400   | 41293 |

|                    |       |       |
|--------------------|-------|-------|
| standard chemistry | 2,800 | 41294 |
| limited chemistry  | 1,550 | 41295 |

On and after July 1, 2014, the following fee, on a per survey basis, shall be charged any such person:

|                    |          |       |
|--------------------|----------|-------|
| microbiological    | \$ 1,650 | 41298 |
| organic chemicals  | 3,500    | 41299 |
| trace metals       | 3,500    | 41300 |
| standard chemistry | 1,800    | 41301 |
| limited chemistry  | 1,000    | 41302 |

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director ~~for~~ to take an examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the application is submitted, shall pay ~~an application fee of~~

~~forty five dollars through November 30, 2014, and twenty five~~ 41324  
~~dollars on and after December 1, 2014. Upon approval from the~~ 41325  
~~director that the applicant is eligible to take the examination~~ 41326  
~~therefor, the applicant shall pay~~ a fee in accordance with the 41327  
following schedule through November 30, 2014: 41328

|                    |                           |       |
|--------------------|---------------------------|-------|
| Class A operator   | <del>\$35</del> <u>80</u> | 41329 |
| Class I operator   | <del>60</del> <u>105</u>  | 41330 |
| Class II operator  | <del>75</del> <u>120</u>  | 41331 |
| Class III operator | <del>85</del> <u>130</u>  | 41332 |
| Class IV operator  | <del>100</del> <u>145</u> | 41333 |

On and after December 1, 2014, the applicant shall pay a fee 41334  
in accordance with the following schedule: 41335

|                    |                           |       |
|--------------------|---------------------------|-------|
| Class A operator   | <del>\$25</del> <u>50</u> | 41336 |
| Class I operator   | <del>\$45</del> <u>70</u> | 41337 |
| Class II operator  | <del>55</del> <u>80</u>   | 41338 |
| Class III operator | <del>65</del> <u>90</u>   | 41339 |
| Class IV operator  | <del>75</del> <u>100</u>  | 41340 |

Any person applying to the director for certification as an 41341  
operator of a water supply system or wastewater system who has 41342  
passed an examination administered by an examination provider 41343  
approved by the director shall pay a certification fee of 41344  
forty-five dollars. 41345

A person shall pay a biennial certification renewal fee for 41346  
each applicable class of certification in accordance with the 41347  
following schedule: 41348

|                    |      |       |
|--------------------|------|-------|
| Class A operator   | \$25 | 41349 |
| Class I operator   | 35   | 41350 |
| Class II operator  | 45   | 41351 |
| Class III operator | 55   | 41352 |
| Class IV operator  | 65   | 41353 |

If a certification renewal fee is received by the director 41354  
more than thirty days, but not more than one year after the 41355

expiration date of the certification, the person shall pay a 41356  
certification renewal fee in accordance with the following 41357  
schedule: 41358

|                    |      |       |
|--------------------|------|-------|
| Class A operator   | \$45 | 41359 |
| Class I operator   | 55   | 41360 |
| Class II operator  | 65   | 41361 |
| Class III operator | 75   | 41362 |
| Class IV operator  | 85   | 41363 |

A person who requests a replacement certificate shall pay a 41364  
fee of twenty-five dollars at the time the request is made. 41365

Any person applying to be a water supply system or wastewater 41366  
treatment system examination provider shall pay an application fee 41367  
of five hundred dollars. Any person approved by the director as a 41368  
water supply system or wastewater treatment system examination 41369  
provider shall pay an annual fee that is equal to ten per cent of 41370  
the fees that the provider assesses and collects for administering 41371  
water supply system or wastewater treatment system certification 41372  
examinations in this state for the calendar year. The fee shall be 41373  
paid not later than forty-five days after the end of a calendar 41374  
year. 41375

The director shall transmit all moneys collected under this 41376  
division to the treasurer of state for deposit into the drinking 41377  
water protection fund created in section 6109.30 of the Revised 41378  
Code. 41379

(P) Any person submitting an application for an industrial 41380  
water pollution control certificate under section 6111.31 of the 41381  
Revised Code, as that section existed before its repeal by H.B. 95 41382  
of the 125th general assembly, shall pay a nonrefundable fee of 41383  
five hundred dollars at the time the application is submitted. The 41384  
director shall transmit all moneys collected under this division 41385  
to the treasurer of state for deposit into the surface water 41386  
protection fund created in section 6111.038 of the Revised Code. A 41387

person paying a certificate fee under this division shall not pay 41388  
an application fee under division (S)(1) of this section. On and 41389  
after June 26, 2003, persons shall file such applications and pay 41390  
the fee as required under sections 5709.20 to 5709.27 of the 41391  
Revised Code, and proceeds from the fee shall be credited as 41392  
provided in section 5709.212 of the Revised Code. 41393

(Q) Except as otherwise provided in division (R) of this 41394  
section, a person issued a permit by the director for a new solid 41395  
waste disposal facility other than an incineration or composting 41396  
facility, a new infectious waste treatment facility other than an 41397  
incineration facility, or a modification of such an existing 41398  
facility that includes an increase in the total disposal or 41399  
treatment capacity of the facility pursuant to Chapter 3734. of 41400  
the Revised Code shall pay a fee of ten dollars per thousand cubic 41401  
yards of disposal or treatment capacity, or one thousand dollars, 41402  
whichever is greater, except that the total fee for any such 41403  
permit shall not exceed eighty thousand dollars. A person issued a 41404  
modification of a permit for a solid waste disposal facility or an 41405  
infectious waste treatment facility that does not involve an 41406  
increase in the total disposal or treatment capacity of the 41407  
facility shall pay a fee of one thousand dollars. A person issued 41408  
a permit to install a new, or modify an existing, solid waste 41409  
transfer facility under that chapter shall pay a fee of two 41410  
thousand five hundred dollars. A person issued a permit to install 41411  
a new or to modify an existing solid waste incineration or 41412  
composting facility, or an existing infectious waste treatment 41413  
facility using incineration as its principal method of treatment, 41414  
under that chapter shall pay a fee of one thousand dollars. The 41415  
increases in the permit fees under this division resulting from 41416  
the amendments made by Amended Substitute House Bill 592 of the 41417  
117th general assembly do not apply to any person who submitted an 41418  
application for a permit to install a new, or modify an existing, 41419  
solid waste disposal facility under that chapter prior to 41420

September 1, 1987; any such person shall pay the permit fee 41421  
established in this division as it existed prior to June 24, 1988. 41422  
In addition to the applicable permit fee under this division, a 41423  
person issued a permit to install or modify a solid waste facility 41424  
or an infectious waste treatment facility under that chapter who 41425  
fails to pay the permit fee to the director in compliance with 41426  
division (V) of this section shall pay an additional ten per cent 41427  
of the amount of the fee for each week that the permit fee is 41428  
late. 41429

Permit and late payment fees paid to the director under this 41430  
division shall be credited to the general revenue fund. 41431

(R)(1) A person issued a registration certificate for a scrap 41432  
tire collection facility under section 3734.75 of the Revised Code 41433  
shall pay a fee of two hundred dollars, except that if the 41434  
facility is owned or operated by a motor vehicle salvage dealer 41435  
licensed under Chapter 4738. of the Revised Code, the person shall 41436  
pay a fee of twenty-five dollars. 41437

(2) A person issued a registration certificate for a new 41438  
scrap tire storage facility under section 3734.76 of the Revised 41439  
Code shall pay a fee of three hundred dollars, except that if the 41440  
facility is owned or operated by a motor vehicle salvage dealer 41441  
licensed under Chapter 4738. of the Revised Code, the person shall 41442  
pay a fee of twenty-five dollars. 41443

(3) A person issued a permit for a scrap tire storage 41444  
facility under section 3734.76 of the Revised Code shall pay a fee 41445  
of one thousand dollars, except that if the facility is owned or 41446  
operated by a motor vehicle salvage dealer licensed under Chapter 41447  
4738. of the Revised Code, the person shall pay a fee of fifty 41448  
dollars. 41449

(4) A person issued a permit for a scrap tire monocell or 41450  
monofill facility under section 3734.77 of the Revised Code shall 41451

pay a fee of ten dollars per thousand cubic yards of disposal 41452  
capacity or one thousand dollars, whichever is greater, except 41453  
that the total fee for any such permit shall not exceed eighty 41454  
thousand dollars. 41455

(5) A person issued a registration certificate for a scrap 41456  
tire recovery facility under section 3734.78 of the Revised Code 41457  
shall pay a fee of one hundred dollars. 41458

(6) A person issued a permit for a scrap tire recovery 41459  
facility under section 3734.78 of the Revised Code shall pay a fee 41460  
of one thousand dollars. 41461

(7) In addition to the applicable registration certificate or 41462  
permit fee under divisions (R)(1) to (6) of this section, a person 41463  
issued a registration certificate or permit for any such scrap 41464  
tire facility who fails to pay the registration certificate or 41465  
permit fee to the director in compliance with division (V) of this 41466  
section shall pay an additional ten per cent of the amount of the 41467  
fee for each week that the fee is late. 41468

(8) The registration certificate, permit, and late payment 41469  
fees paid to the director under divisions (R)(1) to (7) of this 41470  
section shall be credited to the scrap tire management fund 41471  
created in section 3734.82 of the Revised Code. 41472

(S)(1) Except as provided by divisions (L), (M), (N), (O), 41473  
(P), and (S)(2) of this section, division (A)(2) of section 41474  
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 41475  
and rules adopted under division (T)(1) of this section, any 41476  
person applying for a registration certificate under section 41477  
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 41478  
variance, or plan approval under Chapter 3734. of the Revised Code 41479  
shall pay a nonrefundable fee of fifteen dollars at the time the 41480  
application is submitted. 41481

Except as otherwise provided, any person applying for a 41482

permit, variance, or plan approval under Chapter 6109. or 6111. of 41483  
the Revised Code shall pay a nonrefundable fee of one hundred 41484  
dollars at the time the application is submitted through June 30, 41485  
2014, and a nonrefundable fee of fifteen dollars at the time the 41486  
application is submitted on and after July 1, 2014. Except as 41487  
provided in division (S)(3) of this section, through June 30, 41488  
2014, any person applying for a national pollutant discharge 41489  
elimination system permit under Chapter 6111. of the Revised Code 41490  
shall pay a nonrefundable fee of two hundred dollars at the time 41491  
of application for the permit. On and after July 1, 2014, such a 41492  
person shall pay a nonrefundable fee of fifteen dollars at the 41493  
time of application. 41494

In addition to the application fee established under division 41495  
(S)(1) of this section, any person applying for a national 41496  
pollutant discharge elimination system general storm water 41497  
construction permit shall pay a nonrefundable fee of twenty 41498  
dollars per acre for each acre that is permitted above five acres 41499  
at the time the application is submitted. However, the per acreage 41500  
fee shall not exceed three hundred dollars. In addition, any 41501  
person applying for a national pollutant discharge elimination 41502  
system general storm water industrial permit shall pay a 41503  
nonrefundable fee of one hundred fifty dollars at the time the 41504  
application is submitted. 41505

The director shall transmit all moneys collected under 41506  
division (S)(1) of this section pursuant to Chapter 6109. of the 41507  
Revised Code to the treasurer of state for deposit into the 41508  
drinking water protection fund created in section 6109.30 of the 41509  
Revised Code. 41510

The director shall transmit all moneys collected under 41511  
division (S)(1) of this section pursuant to Chapter 6111. of the 41512  
Revised Code and under division (S)(3) of this section to the 41513  
treasurer of state for deposit into the surface water protection 41514

fund created in section 6111.038 of the Revised Code. 41515

If a registration certificate is issued under section 41516  
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 41517  
the application fee paid shall be deducted from the amount of the 41518  
registration certificate fee due under division (R)(1), (2), or 41519  
(5) of this section, as applicable. 41520

If a person submits an electronic application for a 41521  
registration certificate, permit, variance, or plan approval for 41522  
which an application fee is established under division (S)(1) of 41523  
this section, the person shall pay the applicable application fee 41524  
as expeditiously as possible after the submission of the 41525  
electronic application. An application for a registration 41526  
certificate, permit, variance, or plan approval for which an 41527  
application fee is established under division (S)(1) of this 41528  
section shall not be reviewed or processed until the applicable 41529  
application fee, and any other fees established under this 41530  
division, are paid. 41531

(2) Division (S)(1) of this section does not apply to an 41532  
application for a registration certificate for a scrap tire 41533  
collection or storage facility submitted under section 3734.75 or 41534  
3734.76 of the Revised Code, as applicable, if the owner or 41535  
operator of the facility or proposed facility is a motor vehicle 41536  
salvage dealer licensed under Chapter 4738. of the Revised Code. 41537

(3) A person applying for coverage under a national pollutant 41538  
discharge elimination system general discharge permit for 41539  
household sewage treatment systems shall pay the following fees: 41540

(a) A nonrefundable fee of two hundred dollars at the time of 41541  
application for initial permit coverage; 41542

(b) A nonrefundable fee of one hundred dollars at the time of 41543  
application for a renewal of permit coverage. 41544

(T) The director may adopt, amend, and rescind rules in 41545

accordance with Chapter 119. of the Revised Code that do all of 41546  
the following: 41547

(1) Prescribe fees to be paid by applicants for and holders 41548  
of any license, permit, variance, plan approval, or certification 41549  
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 41550  
the Revised Code that are not specifically established in this 41551  
section. The fees shall be designed to defray the cost of 41552  
processing, issuing, revoking, modifying, denying, and enforcing 41553  
the licenses, permits, variances, plan approvals, and 41554  
certifications. 41555

The director shall transmit all moneys collected under rules 41556  
adopted under division (T)(1) of this section pursuant to Chapter 41557  
6109. of the Revised Code to the treasurer of state for deposit 41558  
into the drinking water protection fund created in section 6109.30 41559  
of the Revised Code. 41560

The director shall transmit all moneys collected under rules 41561  
adopted under division (T)(1) of this section pursuant to Chapter 41562  
6111. of the Revised Code to the treasurer of state for deposit 41563  
into the surface water protection fund created in section 6111.038 41564  
of the Revised Code. 41565

(2) Exempt the state and political subdivisions thereof, 41566  
including education facilities or medical facilities owned by the 41567  
state or a political subdivision, or any person exempted from 41568  
taxation by section 5709.07 or 5709.12 of the Revised Code, from 41569  
any fee required by this section; 41570

(3) Provide for the waiver of any fee, or any part thereof, 41571  
otherwise required by this section whenever the director 41572  
determines that the imposition of the fee would constitute an 41573  
unreasonable cost of doing business for any applicant, class of 41574  
applicants, or other person subject to the fee; 41575

(4) Prescribe measures that the director considers necessary 41576

to carry out this section. 41577

(U) When the director reasonably demonstrates that the direct 41578  
cost to the state associated with the issuance of a permit to 41579  
install, license, variance, plan approval, or certification 41580  
exceeds the fee for the issuance or review specified by this 41581  
section, the director may condition the issuance or review on the 41582  
payment by the person receiving the issuance or review of, in 41583  
addition to the fee specified by this section, the amount, or any 41584  
portion thereof, in excess of the fee specified under this 41585  
section. The director shall not so condition issuances for which 41586  
~~fees are a fee is~~ prescribed in ~~divisions (B)(7) and~~ division 41587  
(L)(1)(b) of this section. 41588

(V) Except as provided in divisions (L), (M), and (P) of this 41589  
section or unless otherwise prescribed by a rule of the director 41590  
adopted pursuant to Chapter 119. of the Revised Code, all fees 41591  
required by this section are payable within thirty days after the 41592  
issuance of an invoice for the fee by the director or the 41593  
effective date of the issuance of the license, permit, variance, 41594  
plan approval, or certification. If payment is late, the person 41595  
responsible for payment of the fee shall pay an additional ten per 41596  
cent of the amount due for each month that it is late. 41597

(W) As used in this section, "fuel-burning equipment," 41598  
"fuel-burning equipment input capacity," "incinerator," 41599  
"incinerator input capacity," "process," "process weight rate," 41600  
"storage tank," "gasoline dispensing facility," "dry cleaning 41601  
facility," "design flow discharge," and "new source treatment 41602  
works" have the meanings ascribed to those terms by applicable 41603  
rules or standards adopted by the director under Chapter 3704. or 41604  
6111. of the Revised Code. 41605

(X) As used in divisions (B), ~~(C)~~, (D), (E), (F), (H), (I), 41606  
and (J) of this section, and in any other provision of this 41607  
section pertaining to fees paid pursuant to Chapter 3704. of the 41608

|  |   |
|--|---|
| Revised Code:  | 41609   |
| (1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.  | 41610<br>41611<br>41612                                     |
| (2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:   | 41613<br>41614<br>41615                                     |
| (a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;   | 41616<br>41617<br>41618                                     |
| (b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;  | 41619<br>41620<br>41621<br>41622                            |
| (c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;  | 41623<br>41624<br>41625                                     |
| (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;  | 41626<br>41627<br>41628                                     |
| (e) Emission and ambient monitoring;   | 41629   |
| (f) Modeling, analyses, or demonstrations;   | 41630   |
| (g) Preparing inventories and tracking emissions;  | 41631   |
| (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. | 41632<br>41633<br>41634<br>41635<br>41636<br>41637<br>41638 |

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 41639  
of this section, each sewage sludge facility shall pay a 41640  
nonrefundable annual sludge fee equal to three dollars and fifty 41641  
cents per dry ton of sewage sludge, including the dry tons of 41642  
sewage sludge in materials derived from sewage sludge, that the 41643  
sewage sludge facility treats or disposes of in this state. The 41644  
annual volume of sewage sludge treated or disposed of by a sewage 41645  
sludge facility shall be calculated using the first day of January 41646  
through the thirty-first day of December of the calendar year 41647  
preceding the date on which payment of the fee is due. 41648

(2)(a) Except as provided in division (Y)(2)(d) of this 41649  
section, each sewage sludge facility shall pay a minimum annual 41650  
sewage sludge fee of one hundred dollars. 41651

(b) The annual sludge fee required to be paid by a sewage 41652  
sludge facility that treats or disposes of exceptional quality 41653  
sludge in this state shall be thirty-five per cent less per dry 41654  
ton of exceptional quality sludge than the fee assessed under 41655  
division (Y)(1) of this section, subject to the following 41656  
exceptions: 41657

(i) Except as provided in division (Y)(2)(d) of this section, 41658  
a sewage sludge facility that treats or disposes of exceptional 41659  
quality sludge shall pay a minimum annual sewage sludge fee of one 41660  
hundred dollars. 41661

(ii) A sewage sludge facility that treats or disposes of 41662  
exceptional quality sludge shall not be required to pay the annual 41663  
sludge fee for treatment or disposal in this state of exceptional 41664  
quality sludge generated outside of this state and contained in 41665  
bags or other containers not greater than one hundred pounds in 41666  
capacity. 41667

A thirty-five per cent reduction for exceptional quality 41668  
sludge applies to the maximum annual fees established under 41669

division (Y)(3) of this section. 41670

(c) A sewage sludge facility that transfers sewage sludge to 41671  
another sewage sludge facility in this state for further treatment 41672  
prior to disposal in this state shall not be required to pay the 41673  
annual sludge fee for the tons of sewage sludge that have been 41674  
transferred. In such a case, the sewage sludge facility that 41675  
disposes of the sewage sludge shall pay the annual sludge fee. 41676  
However, the facility transferring the sewage sludge shall pay the 41677  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 41678  
of this section. 41679

In the case of a sewage sludge facility that treats sewage 41680  
sludge in this state and transfers it out of this state to another 41681  
entity for disposal, the sewage sludge facility in this state 41682  
shall be required to pay the annual sludge fee for the tons of 41683  
sewage sludge that have been transferred. 41684

(d) A sewage sludge facility that generates sewage sludge 41685  
resulting from an average daily discharge flow of less than five 41686  
thousand gallons per day is not subject to the fees assessed under 41687  
division (Y) of this section. 41688

(3) No sewage sludge facility required to pay the annual 41689  
sludge fee shall be required to pay more than the maximum annual 41690  
fee for each disposal method that the sewage sludge facility uses. 41691  
The maximum annual fee does not include the additional amount that 41692  
may be charged under division (Y)(5) of this section for late 41693  
payment of the annual sludge fee. The maximum annual fee for the 41694  
following methods of disposal of sewage sludge is as follows: 41695

(a) Incineration: five thousand dollars; 41696

(b) Preexisting land reclamation project or disposal in a 41697  
landfill: five thousand dollars; 41698

(c) Land application, land reclamation, surface disposal, or 41699  
any other disposal method not specified in division (Y)(3)(a) or 41700

(b) of this section: twenty thousand dollars. 41701

(4)(a) In the case of an entity that generates sewage sludge 41702  
or a sewage sludge facility that treats sewage sludge and 41703  
transfers the sewage sludge to an incineration facility for 41704  
disposal, the incineration facility, and not the entity generating 41705  
the sewage sludge or the sewage sludge facility treating the 41706  
sewage sludge, shall pay the annual sludge fee for the tons of 41707  
sewage sludge that are transferred. However, the entity or 41708  
facility generating or treating the sewage sludge shall pay the 41709  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 41710  
of this section. 41711

(b) In the case of an entity that generates sewage sludge and 41712  
transfers the sewage sludge to a landfill for disposal or to a 41713  
sewage sludge facility for land reclamation or surface disposal, 41714  
the entity generating the sewage sludge, and not the landfill or 41715  
sewage sludge facility, shall pay the annual sludge fee for the 41716  
tons of sewage sludge that are transferred. 41717

(5) Not later than the first day of April of the calendar 41718  
year following March 17, 2000, and each first day of April 41719  
thereafter, the director shall issue invoices to persons who are 41720  
required to pay the annual sludge fee. The invoice shall identify 41721  
the nature and amount of the annual sludge fee assessed and state 41722  
the first day of May as the deadline for receipt by the director 41723  
of objections regarding the amount of the fee and the first day of 41724  
July as the deadline for payment of the fee. 41725

Not later than the first day of May following receipt of an 41726  
invoice, a person required to pay the annual sludge fee may submit 41727  
objections to the director concerning the accuracy of information 41728  
regarding the number of dry tons of sewage sludge used to 41729  
calculate the amount of the annual sludge fee or regarding whether 41730  
the sewage sludge qualifies for the exceptional quality sludge 41731  
discount established in division (Y)(2)(b) of this section. The 41732

director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund

exceeded six hundred thousand dollars in either fiscal year, the 41764  
director, after review of the fee structure and consultation with 41765  
affected persons, shall issue an order reducing the amount of the 41766  
fees levied under division (Y) of this section so that the 41767  
estimated amount of moneys resulting from the fees will not exceed 41768  
six hundred thousand dollars in any fiscal year. 41769

If, upon review of the fees under division (Y)(7) of this 41770  
section and after the fees have been reduced, the director 41771  
determines that the total amount of moneys collected and 41772  
accumulated is less than six hundred thousand dollars, the 41773  
director, after review of the fee structure and consultation with 41774  
affected persons, may issue an order increasing the amount of the 41775  
fees levied under division (Y) of this section so that the 41776  
estimated amount of moneys resulting from the fees will be 41777  
approximately six hundred thousand dollars. Fees shall never be 41778  
increased to an amount exceeding the amount specified in division 41779  
(Y)(7) of this section. 41780

Notwithstanding section 119.06 of the Revised Code, the 41781  
director may issue an order under division (Y)(7) of this section 41782  
without the necessity to hold an adjudicatory hearing in 41783  
connection with the order. The issuance of an order under this 41784  
division is not an act or action for purposes of section 3745.04 41785  
of the Revised Code. 41786

(8) As used in division (Y) of this section: 41787

(a) "Sewage sludge facility" means an entity that performs 41788  
treatment on or is responsible for the disposal of sewage sludge. 41789

(b) "Sewage sludge" means a solid, semi-solid, or liquid 41790  
residue generated during the treatment of domestic sewage in a 41791  
treatment works as defined in section 6111.01 of the Revised Code. 41792  
"Sewage sludge" includes, but is not limited to, scum or solids 41793  
removed in primary, secondary, or advanced wastewater treatment 41794

processes. "Sewage sludge" does not include ash generated during 41795  
the firing of sewage sludge in a sewage sludge incinerator, grit 41796  
and screenings generated during preliminary treatment of domestic 41797  
sewage in a treatment works, animal manure, residue generated 41798  
during treatment of animal manure, or domestic septage. 41799

(c) "Exceptional quality sludge" means sewage sludge that 41800  
meets all of the following qualifications: 41801

(i) Satisfies the class A pathogen standards in 40 C.F.R. 41802  
503.32(a); 41803

(ii) Satisfies one of the vector attraction reduction 41804  
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 41805

(iii) Does not exceed the ceiling concentration limitations 41806  
for metals listed in table one of 40 C.F.R. 503.13; 41807

(iv) Does not exceed the concentration limitations for metals 41808  
listed in table three of 40 C.F.R. 503.13. 41809

(d) "Treatment" means the preparation of sewage sludge for 41810  
final use or disposal and includes, but is not limited to, 41811  
thickening, stabilization, and dewatering of sewage sludge. 41812

(e) "Disposal" means the final use of sewage sludge, 41813  
including, but not limited to, land application, land reclamation, 41814  
surface disposal, or disposal in a landfill or an incinerator. 41815

(f) "Land application" means the spraying or spreading of 41816  
sewage sludge onto the land surface, the injection of sewage 41817  
sludge below the land surface, or the incorporation of sewage 41818  
sludge into the soil for the purposes of conditioning the soil or 41819  
fertilizing crops or vegetation grown in the soil. 41820

(g) "Land reclamation" means the returning of disturbed land 41821  
to productive use. 41822

(h) "Surface disposal" means the placement of sludge on an 41823  
area of land for disposal, including, but not limited to, 41824

monofills, surface impoundments, lagoons, waste piles, or 41825  
dedicated disposal sites. 41826

(i) "Incinerator" means an entity that disposes of sewage 41827  
sludge through the combustion of organic matter and inorganic 41828  
matter in sewage sludge by high temperatures in an enclosed 41829  
device. 41830

(j) "Incineration facility" includes all incinerators owned 41831  
or operated by the same entity and located on a contiguous tract 41832  
of land. Areas of land are considered to be contiguous even if 41833  
they are separated by a public road or highway. 41834

(k) "Annual sludge fee" means the fee assessed under division 41835  
(Y)(1) of this section. 41836

(l) "Landfill" means a sanitary landfill facility, as defined 41837  
in rules adopted under section 3734.02 of the Revised Code, that 41838  
is licensed under section 3734.05 of the Revised Code. 41839

(m) "Preexisting land reclamation project" means a 41840  
property-specific land reclamation project that has been in 41841  
continuous operation for not less than five years pursuant to 41842  
approval of the activity by the director and includes the 41843  
implementation of a community outreach program concerning the 41844  
activity. 41845

**Sec. 3745.112.** During the month of August 1997, and 41846  
biennially thereafter, the director of environmental protection 41847  
shall enter into a contract for the performance of an independent 41848  
evaluation of the Title V permit program to be conducted under the 41849  
supervision of an independent certified public accountant. The 41850  
evaluation shall review the finances, operations, revenues, costs, 41851  
and expenditures of the Title V permit program under section 41852  
3704.036 of the Revised Code and the Title V clean air fund 41853  
created in section 3704.035 of the Revised Code. The findings of 41854

each such evaluation shall be set forth in a written report that 41855  
shall include, without limitation, all of the following: 41856

(A) A review and analysis of all expenditures from the Title 41857  
V clean air fund for the Title V permit program; 41858

(B) A review and analysis of all costs incurred by the 41859  
environmental protection agency designated by the director to be 41860  
costs of the Title V permit program; 41861

(C) A review and analysis of all expenditures from the Title 41862  
V clean air fund for costs not designated by the director as costs 41863  
of the Title V permit program; 41864

(D) A review and analysis of the adequacy of the fees 41865  
assessed under division ~~(C)~~(B) of section 3745.11 for meeting the 41866  
costs of the Title V permit program during the period reviewed by 41867  
the evaluation. 41868

Upon completion of the written report of each evaluation 41869  
required by this section, the director shall provide copies of the 41870  
report to the governor and the general assembly and shall make 41871  
copies of it available to the public. 41872

The reasonable and necessary expenses for conducting an 41873  
evaluation required under this section are hereby deemed to be 41874  
reasonable costs to administer the Title V permit program and 41875  
shall be paid from moneys credited to the Title V clean air fund 41876  
arising from the fees assessed under division ~~(C)~~(B) of section 41877  
3745.11 of the Revised Code. 41878

**Sec. 3748.04.** The ~~public~~ director of health council, in 41879  
accordance with Chapter 119. of the Revised Code, shall adopt and 41880  
may amend or rescind rules doing all of the following: 41881

(A) Listing types of radioactive material for which licensure 41882  
by its handler is required and types of radiation-generating 41883  
equipment for which registration by its handler is required, and 41884

establishing requirements governing them. Rules adopted under 41885  
division (A) of this section shall be compatible with applicable 41886  
federal regulations and shall establish all of the following, 41887  
without limitation: 41888

(1) Requirements governing both of the following: 41889

(a) The licensing and inspection of handlers of radioactive 41890  
material. Standards established in rules adopted under division 41891  
(A)(1)(a) of this section regarding byproduct material or any 41892  
activity that results in the production of that material, to the 41893  
extent practicable, shall be equivalent to or more stringent than 41894  
applicable standards established by the United States nuclear 41895  
regulatory commission. 41896

(b) The registration and inspection of handlers of 41897  
radiation-generating equipment. Standards established in rules 41898  
adopted under division (A)(1)(b) of this section, to the extent 41899  
practicable, shall be equivalent to applicable standards 41900  
established by the food and drug administration in the United 41901  
States department of health and human services. 41902

(2) Identification of and requirements governing possession 41903  
and use of specifically licensed and generally licensed quantities 41904  
of radioactive material as either sealed sources or unsealed 41905  
sources; 41906

(3) A procedure for the issuance of and the frequency of 41907  
renewal of the licenses of handlers of radioactive material, other 41908  
than a license for a facility for the disposal of low-level 41909  
radioactive waste, and of the certificates of registration of 41910  
handlers of radiation-generating equipment; 41911

(4) Procedures for suspending and revoking the licenses of 41912  
handlers of radioactive material and the certificates of 41913  
registration of handlers of radiation-generating equipment; 41914

(5) Criteria to be used by the director of health in amending 41915

|   |       |
|---|-------|
| the license of a handler of radioactive material or the           | 41916 |
| certificate of registration of a handler of radiation-generating  | 41917 |
| equipment subsequent to its issuance;                             | 41918 |
| (6) Criteria for achieving and maintaining compliance with        | 41919 |
| this chapter and rules adopted under it by licensees and          | 41920 |
| registrants;  | 41921 |
| (7) Criteria governing environmental monitoring of licensed       | 41922 |
| and registered activities to assess compliance with this chapter  | 41923 |
| and rules adopted under it;                                       | 41924 |
| (8) Fees for both of the following:                               | 41925 |
| (a) The licensing of handlers, other than facilities for the      | 41926 |
| disposal of low-level radioactive waste, of radioactive material; | 41927 |
| (b) The registration of handlers, other than facilities that      | 41928 |
| are, or are operated by, medical practitioners or                 | 41929 |
| medical-practitioner groups, of radiation-generating equipment.   | 41930 |
| (9) A fee schedule for both of the following that includes        | 41931 |
| fees for reviews, conducted during an inspection, of shielding    | 41932 |
| plans or the adequacy of shielding:                               | 41933 |
| (a) The inspection of handlers of radioactive material;           | 41934 |
| (b) The inspection of handlers, other than facilities that        | 41935 |
| are, or are operated by, medical practitioners or                 | 41936 |
| medical-practitioner groups, of radiation-generating equipment.   | 41937 |
| (B)(1) Identifying sources of radiation, circumstances of         | 41938 |
| possession, use, or disposal of sources of radiation, and levels  | 41939 |
| of radiation that constitute an unreasonable or unnecessary risk  | 41940 |
| to human health or the environment;                               | 41941 |
| (2) Establishing requirements for the achievement and             | 41942 |
| maintenance of compliance with standards for the receipt,         | 41943 |
| possession, use, storage, installation, transfer, servicing, and  | 41944 |
| disposal of sources of radiation to prevent levels of radiation   | 41945 |

that constitute an unreasonable or unnecessary risk to human health or the environment; 41946  
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(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment. 41948  
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In adopting rules under divisions (A) and (B) of this section, the ~~council~~ director shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards institute. 41952  
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(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation: 41962  
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(1) Minimum training and experience requirements; 41965

(2) Procedures for applying for certification; 41966

(3) Procedures for review of applications and issuance of certificates; 41967  
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(4) Procedures for suspending and revoking certification. 41969

(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings; 41970  
41971

(E) Establishing the responsibilities of a radiation expert; 41972

(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment; 41973  
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(G) Establishing fees to be paid by any facility that, on 41976  
September 8, 1995, holds a license from the United States nuclear 41977  
regulatory commission in order to provide moneys necessary for the 41978  
transfer of licensing and other regulatory authority from the 41979  
commission to the state pursuant to section 3748.03 of the Revised 41980  
Code. Rules adopted under this division shall stipulate that fees 41981  
so established do not apply to any functions dealing specifically 41982  
with a facility for the disposal of low-level radioactive waste. 41983  
Fees collected under this division shall be deposited into the 41984  
state treasury to the credit of the general operations fund 41985  
created in section 3701.83 of the Revised Code. The fees shall be 41986  
used solely to administer and enforce this chapter and rules 41987  
adopted under it. 41988

(H) Establishing fees to be collected annually from 41989  
generators of low-level radioactive waste, which shall be based 41990  
upon the volume and radioactivity of the waste generated and the 41991  
costs of administering low-level radioactive waste management 41992  
activities under this chapter and rules adopted under it. All fees 41993  
collected under this division shall be deposited into the state 41994  
treasury to the credit of the general operations fund created in 41995  
section 3701.83 of the Revised Code. The fees shall be used solely 41996  
to administer and enforce this chapter and rules adopted under it. 41997  
Any fee required under this division that ~~has not been paid within~~ 41998  
~~ninety days~~ remains unpaid on the ninety-first day after the 41999  
original invoice date shall be assessed at ~~two times~~ an additional 42000  
amount equal to ten per cent of the original ~~invoiced~~ fee. Any fee 42001  
~~that has not been paid within one hundred eighty days after the~~ 42002  
~~invoice date shall be assessed at five times the original invoiced~~ 42003  
~~fee.~~ 42004

(I) Establishing requirements governing closure, 42005  
decontamination, decommissioning, reclamation, and long-term 42006  
surveillance and care of a facility licensed under this chapter 42007

and rules adopted under it. Rules adopted under division (I) of 42008  
this section shall include, without limitation, all of the 42009  
following: 42010

(1) Standards and procedures to ensure that a licensee 42011  
prepares a decommissioning funding plan that provides an adequate 42012  
financial guaranty to permit the completion of all requirements 42013  
governing the closure, decontamination, decommissioning, and 42014  
reclamation of sites, structures, and equipment used in 42015  
conjunction with a licensed activity; 42016

(2) For licensed activities where radioactive material that 42017  
will require surveillance or care is likely to remain at the site 42018  
after the licensed activities cease, as indicated in the 42019  
application for the license submitted under section 3748.07 of the 42020  
Revised Code, standards and procedures to ensure that the licensee 42021  
prepares an additional decommissioning funding plan for long-term 42022  
surveillance and care, before termination of the license, that 42023  
provides an additional adequate financial guaranty as necessary to 42024  
provide for that surveillance and care; 42025

(3) For the purposes of the decommissioning funding plans 42026  
required in rules adopted under divisions (I)(1) and (2) of this 42027  
section, the types of acceptable financial guaranties, which shall 42028  
include bonds issued by fidelity or surety companies authorized to 42029  
do business in the state, certificates of deposit, deposits of 42030  
government securities, irrevocable letters or lines of credit, 42031  
trust funds, escrow accounts, or other similar types of 42032  
arrangements, but shall not include any arrangement that 42033  
constitutes self-insurance; 42034

(4) A requirement that the decommissioning funding plans 42035  
required in rules adopted under divisions (I)(1) and (2) of this 42036  
section contain financial guaranties in amounts sufficient to 42037  
ensure compliance with any standards established by the United 42038  
States nuclear regulatory commission, or by the state if it has 42039

become an agreement state pursuant to section 3748.03 of the Revised Code, pertaining to closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of licensed activities and sites of licensees.

Standards established in rules adopted under division (I) of this section regarding any activity that resulted in the production of byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, to the extent practicable, shall be equivalent to or more stringent than standards established by the United States nuclear regulatory commission for sites at which ores were processed primarily for their source material content and at which byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, is deposited.

(J) Establishing criteria governing inspections of a facility for the disposal of low-level radioactive waste, including, without limitation, the establishment of a resident inspector program at such a facility;

(K) Establishing requirements and procedures governing the filing of complaints under section 3748.16 of the Revised Code, including, without limitation, those governing intervention in a hearing held under division (B)(3) of that section.

**Sec. 3748.05.** (A) The director of health shall do all of the following:

(1) Administer and enforce this chapter and the rules adopted under it;

(2) Collect and make available information relating to sources of radiation;

(3) Ensure the review of plans and specifications, submitted in accordance with rules adopted by the ~~public health council~~

director, for the control of radiation that constitutes an 42070  
unreasonable or unnecessary risk to human health or the 42071  
environment; 42072

(4) Review reports of quality assurance audits performed by 42073  
certified radiation experts under this chapter and the rules 42074  
adopted under it; 42075

(5) Ensure that programs for the control of sources of 42076  
radiation are developed with due regard for compatibility with 42077  
federal programs for the regulation of byproduct, source, and 42078  
special nuclear materials; 42079

(6) In accordance with Chapter 119. of the Revised Code, 42080  
adopt, and subsequently may amend and rescind, rules providing for 42081  
the administrative assessment and collection of monetary penalties 42082  
for failure by any facility licensed under this chapter and rules 42083  
adopted under it to comply with this chapter and those rules. The 42084  
director may require the submission of compliance schedules and 42085  
other related information. Any orders issued or payments or other 42086  
requirements imposed pursuant to rules adopted under division 42087  
(A)(6) of this section shall not affect any civil or criminal 42088  
enforcement proceeding brought under this chapter or any other 42089  
provision of state or local law. Moneys collected as 42090  
administrative penalties imposed pursuant to rules adopted under 42091  
division (A)(6) of this section shall be deposited in the state 42092  
treasury to the credit of the general operations fund created in 42093  
section 3701.83 of the Revised Code. The moneys shall be used 42094  
solely to administer and enforce this chapter and the rules 42095  
adopted under it. 42096

(7) Maintain files of both of the following: 42097

(a) All license and registration applications, issuances, 42098  
denials, amendments, renewals, suspensions, and revocations and 42099  
any administrative or judicial action pertaining to them; 42100

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| (b) All rules adopted under this chapter, or proposed to be adopted, relating to the regulation of sources of radiation and proceedings on them.   | 42101<br>42102<br>42103   |
| (B) The director may do any or all of the following:   | 42104   |
| (1) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, industries, and other affected groups in furtherance of the purposes of this chapter and the rules adopted under it;   | 42105<br>42106<br>42107<br>42108<br>42109                                     |
| (2) Accept and administer grants from the federal government and from other sources, public or private, for carrying out any of the director's functions under this chapter and the rules adopted under it;  | 42110<br>42111<br>42112<br>42113  |
| (3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the detection and control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment, the measurement of radiation, the evaluation of potential effects on health of cumulative or acute exposure to radiation, the development and improvement of methods to limit and reduce the generation of radioactive waste, and related problems as the director considers necessary or advisable; | 42114<br>42115<br>42116<br>42117<br>42118<br>42119<br>42120<br>42121<br>42122 |
| (4) In accordance with Chapter 119. of the Revised Code, adopt rules establishing criteria under which other agencies of the state or private entities may perform inspections of x-ray equipment at registered dental facilities at the request of the facility or pursuant to contract with the department;  | 42123<br>42124<br>42125<br>42126<br>42127                                     |
| (5) Exercise all incidental powers necessary to carry out the purposes of this chapter and the rules adopted under it, including, without limitation, the issuance of orders.  | 42128<br>42129<br>42130   |

**Sec. 3748.07.** (A) Every facility that proposes to handle 42131  
radioactive material or radiation-generating equipment for which 42132  
licensure or registration, respectively, by its handler is 42133  
required shall apply in writing to the director of health on forms 42134  
prescribed and provided by the director for licensure or 42135  
registration. Terms and conditions of licenses and certificates of 42136  
registration may be amended in accordance with rules adopted under 42137  
section 3748.04 of the Revised Code or orders issued by the 42138  
director pursuant to section 3748.05 of the Revised Code. 42139

(B)(1) An applicant proposing to handle radioactive material 42140  
shall pay for a license or renewal of a license the appropriate 42141  
fee specified in rules adopted under section 3748.04 of the 42142  
Revised Code and listed on an invoice provided by the director. 42143  
The applicant shall pay the fee on receipt of the invoice. 42144

(2)(a) Except as provided in division (B)(2)(b) of this 42145  
section, until fees are established in rules adopted under 42146  
division (A)(8)(b) of section 3748.04 of the Revised Code, an 42147  
applicant proposing to handle radiation-generating equipment shall 42148  
pay for a certificate of registration or renewal of a certificate 42149  
a biennial registration fee of two hundred sixty-two dollars. 42150

Except as provided in division (B)(2)(b) of this section, on 42151  
and after the effective date of the rules in which fees are 42152  
established under division (A)(8)(b) of section 3748.04 of the 42153  
Revised Code, an applicant proposing to handle 42154  
radiation-generating equipment shall pay for a certificate of 42155  
registration or renewal of a certificate the appropriate fee 42156  
established in those rules. 42157

The applicant shall pay the fees described in division 42158  
(B)(2)(a) of this section at the time of applying for a 42159  
certificate of registration or renewal of a certificate. 42160

(b) An applicant that is, or is operated by, a medical 42161

practitioner or medical-practitioner group and proposes to handle 42162  
radiation-generating equipment shall pay for a certificate of 42163  
registration or renewal of a certificate a biennial registration 42164  
fee of two hundred sixty-two dollars. The applicant shall pay the 42165  
fee at the time of applying for a certificate of registration or 42166  
renewal of the certificate. 42167

(C) All fees collected under this section shall be deposited 42168  
in the state treasury to the credit of the general operations fund 42169  
created in section 3701.83 of the Revised Code. The fees shall be 42170  
used solely to administer and enforce this chapter and rules 42171  
adopted under it. 42172

(D) Any fee required under this section that ~~has not been~~ 42173  
~~paid within ninety days~~ remains unpaid on the ninety-first day 42174  
after the original invoice date shall be assessed ~~at two times an~~ 42175  
additional amount equal to ten per cent of the original invoiced 42176  
fee. ~~Any fee that has not been paid within one hundred eighty days~~ 42177  
~~after the invoice date shall be assessed at five times the~~ 42178  
~~original invoiced fee.~~ 42179

(E) The director shall grant a license or registration to any 42180  
applicant who has paid the required fee and is in compliance with 42181  
this chapter and rules adopted under it. 42182

(F) Except as provided in division (B)(2) of this section, 42183  
licenses and certificates of registration shall be effective for 42184  
the applicable period established in rules adopted under section 42185  
3748.04 of the Revised Code. Licenses and certificates of 42186  
registration shall be renewed in accordance with the renewal 42187  
procedure established in rules adopted under section 3748.04 of 42188  
the Revised Code. 42189

**Sec. 3748.10.** (A) As used in this section, "person" means any 42190  
legal entity defined as a person under section 1.59 of the Revised 42191  
Code, the state or any agency of the state, any political 42192

subdivision or agency of a political subdivision, and the United States or any agency or instrumentality of the United States other than the United States department of energy or the United States nuclear regulatory commission where state regulation of the treatment, recycling, storage, or disposal of low-level radioactive waste by either of those agencies is prohibited by federal law.

(B) No person shall treat, recycle, store, or dispose of any low-level radioactive waste except at a facility that is licensed for treatment, recycling, storage, or disposal of that waste by the director of health under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it regardless of whether the waste has been reclassified as "below regulatory concern" by the United States nuclear regulatory commission pursuant to any rule or standard adopted after January 1, 1990.

(C) Division (B) of this section does not apply to either of the following:

(1) Any low-level radioactive waste that on or before January 1, 1990, was authorized under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it to be treated, recycled, stored, or disposed of at a facility that has not been licensed under that act and regulations adopted under it;

(2) Any low-level radioactive waste that has received an exemption from the director of health under division (C)(2) of this section. If the United States nuclear regulatory commission declares its intent to institute a policy regarding the reclassification of waste as "below regulatory concern," the

~~public health council~~ director, in consultation with the 42225  
environmental protection agency, shall adopt rules in accordance 42226  
with Chapter 119. of the Revised Code that govern the granting of 42227  
such exemptions and that do at least all of the following: 42228

(a) Establish an application procedure to be followed by the 42229  
generator of a low-level radioactive waste who wishes to obtain an 42230  
exemption for that waste under division (C)(2) of this section; 42231

(b) Require that in order to receive an exemption, a 42232  
low-level radioactive waste shall have been reclassified as "below 42233  
regulatory concern" by the United States nuclear regulatory 42234  
commission after August 19, 1992. The rules adopted under division 42235  
(C)(2)(b) of this section shall stipulate that such a 42236  
reclassification does not automatically qualify a low-level 42237  
radioactive waste for an exemption under division (C)(2) of this 42238  
section. 42239

(c) Require an applicant to demonstrate with clear and 42240  
convincing evidence that the low-level radioactive waste that is 42241  
the subject of the application does not present a higher 42242  
radioactive hazard than any low-level radioactive waste to which 42243  
division (C)(1) of this section applies and that treatment, 42244  
recycling, storage, or disposal of the waste at a facility that 42245  
has not been licensed by the director under this chapter and rules 42246  
adopted under it or, until the state becomes an agreement state 42247  
pursuant to section 3748.03 of the Revised Code, by the United 42248  
States nuclear regulatory commission under the "Atomic Energy Act 42249  
of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and 42250  
regulations adopted under it, will not harm public health or 42251  
safety or the environment; 42252

(d) Establish public notification procedures to be followed 42253  
by the director for any public hearing held ~~by him~~ under division 42254  
(C)(2) of this section. 42255

The director shall review an application submitted ~~to him~~ 42256  
under division (C)(2) of this section and shall hold a public 42257  
hearing concerning the application before granting or denying the 42258  
exemption requested. The director may grant an exemption to the 42259  
low-level radioactive waste that is the subject of the application 42260  
~~if he determines~~ after determining that the generator has complied 42261  
with the rules adopted under division (C)(2)(a) of this section 42262  
and that the waste satisfies the requirements established in the 42263  
rules adopted under divisions (C)(2)(b) and (c) of this section. 42264  
The director shall maintain a list of all low-level radioactive 42265  
wastes to which ~~he~~ the director has granted such an exemption. 42266

Division (C)(2) of this section does not apply to any 42267  
low-level radioactive waste generated at a nuclear power station. 42268

**Sec. 3748.12.** The director of health shall certify radiation 42269  
experts pursuant to rules adopted under division (C) of section 42270  
3748.04 of the Revised Code. The director shall issue a 42271  
certificate to each person certified under this section. An 42272  
individual certified by the director is qualified to develop, 42273  
provide periodic review of, and conduct audits of the quality 42274  
assurance program for sources of radiation for which such a 42275  
program is required under division (A) of section 3748.13 of the 42276  
Revised Code. 42277

The ~~public health council~~ director shall establish an 42278  
application fee for applying for certification and a biennial 42279  
certification renewal fee in rules adopted under division (C) of 42280  
section 3748.04 of the Revised Code. A certificate issued under 42281  
this section shall expire two years after the date of its 42282  
issuance. To maintain certification, a radiation expert shall 42283  
apply to the director for renewal of certification in accordance 42284  
with the standard renewal procedures established in Chapter 4745. 42285  
of the Revised Code. The certification renewal fee is not required 42286

for initial certification, but shall be paid for every renewal of 42287  
certification. Fees collected under this section shall be 42288  
deposited into the state treasury to the credit of the general 42289  
operations fund created in section 3701.83 of the Revised Code. 42290  
The fees shall be used solely to administer and enforce this 42291  
chapter and rules adopted under it. Any fee required under this 42292  
section that ~~has not been paid within ninety days~~ remains unpaid 42293  
on the ninety-first day after the original invoice date shall be 42294  
assessed ~~at two times~~ an additional amount equal to ten per cent 42295  
of the original ~~invoiced~~ fee. ~~Any fee that has not been paid~~ 42296  
~~within one hundred eighty days after the invoice date shall be~~ 42297  
~~assessed at five times the original invoiced fee.~~ 42298

**Sec. 3748.13.** (A) The director of health shall inspect 42299  
sources of radiation for which licensure or registration by the 42300  
handler is required, and the sources' shielding and surroundings, 42301  
according to the schedule established in rules adopted under 42302  
division (D) of section 3748.04 of the Revised Code. In accordance 42303  
with rules adopted under section 3748.04 of the Revised Code, the 42304  
director shall inspect all records and operating procedures of 42305  
handlers that install or service sources of radiation and all 42306  
sources of radiation for which licensure of radioactive material 42307  
or registration of radiation-generating equipment by the handler 42308  
is required. The director may make other inspections upon 42309  
receiving complaints or other evidence of a violation of this 42310  
chapter or rules adopted under it. 42311

The director shall require any hospital registered under 42312  
division (A) of section 3701.07 of the Revised Code to develop and 42313  
maintain a quality assurance program for all sources of 42314  
radiation-generating equipment. A certified radiation expert shall 42315  
conduct oversight and maintenance of the program and shall file a 42316  
report of audits of the program with the director on forms 42317  
prescribed by the director. The audit reports shall become part of 42318

the inspection record. 42319

(B)(1) Except as provided in division (B)(2) of this section, 42320  
a facility shall pay inspection fees for radioactive material and 42321  
radiation-generating equipment according to the schedule and 42322  
categories established in rules adopted under division (A)(9) of 42323  
section 3748.04 of the Revised Code. 42324

(2) A facility that is, or is operated by, a medical 42325  
practitioner or medical-practitioner group shall pay inspection 42326  
fees for radiation-generating equipment according to the following 42327  
schedule and categories: 42328

First dental x-ray tube \$ 155.00 42329

Each additional dental x-ray tube \$ 77.00 42330  
at the same location

First medical x-ray tube \$ 307.00 42331

Each additional medical x-ray tube \$ 163.00 42332  
at the same location

Each unit of ionizing \$ 610.00 42333  
radiation-generating equipment  
capable of operating at or above  
250 kilovoltage peak

First nonionizing \$ 307.00 42334

radiation-generating equipment of  
any kind

Each additional nonionizing \$ 163.00 42335

radiation-generating equipment of  
any kind at the same location

(C)(1) Except as provided in division (C)(2) of this section, 42336  
the fee for the inspection of a facility that proposes to handle 42337  
radioactive material or radiation-generating equipment and is not 42338  
licensed or registered, and for which no license or registration 42339  
application is pending at the time of inspection, is four hundred 42340  
seventy-four dollars plus the applicable fee specified in rules 42341

adopted under division (A)(9) of section 3748.04 of the Revised Code. 42342  
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(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment, the fee for an inspection if the facility is not licensed or registered, and no license or registration is pending at the time of inspection, is four hundred seventy-four dollars plus the fee applicable under the schedule in division (B)(2) of this section. 42344  
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(D)(1) Except as provided in division (D)(2) of this section, for a facility that handles radioactive material or radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is the amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code. 42351  
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(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the applicable fee under the schedule in division (B)(2) of this section. 42357  
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(E) The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary. 42363  
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(1) Except as provided in division (E)(2) of this section, the fee for the review is the applicable amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code. 42368  
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(2) For a facility that is, or is operated by, a medical 42372

practitioner or medical-practitioner group and handles or proposes 42373  
to handle radiation-generating equipment, the fee for the review 42374  
is seven hundred sixty-two dollars for each room where a source of 42375  
radiation is used and is in addition to any other fee applicable 42376  
under the schedule in division (B)(2) of this section. 42377

(F) All fees shall be paid to the department of health no 42378  
later than thirty days after the invoice for the fee is mailed. 42379  
Fees shall be deposited in the general operations fund created in 42380  
section 3701.83 of the Revised Code. The fees shall be used solely 42381  
to administer and enforce this chapter and rules adopted under it. 42382

(G) Any fee required under this section that ~~has not been~~ 42383  
~~paid within ninety days~~ remains unpaid on the ninety-first day 42384  
after the original invoice date shall be assessed ~~at two times an~~ 42385  
additional amount equal to ten per cent of the original ~~invoiced~~ 42386  
fee. ~~Any fee that has not been paid within one hundred eighty days~~ 42387  
~~after the invoice date shall be assessed at five times the~~ 42388  
~~original invoiced fee.~~ 42389

(H) If the director determines that a board of health of a 42390  
city or general health district is qualified to conduct 42391  
inspections of radiation-generating equipment, the director may 42392  
delegate to the board, by contract, the authority to conduct such 42393  
inspections. In making a determination of the qualifications of a 42394  
board of health to conduct those inspections, the director shall 42395  
evaluate the credentials of the individuals who are to conduct the 42396  
inspections of radiation-generating equipment and the radiation 42397  
detection and measuring equipment available to them for that 42398  
purpose. If a contract is entered into, the board shall have the 42399  
same authority to make inspections of radiation-generating 42400  
equipment as the director has under this chapter and rules adopted 42401  
under it. The contract shall stipulate that only individuals 42402  
approved by the director as qualified shall be permitted to 42403  
inspect radiation-generating equipment under the contract's 42404

provisions. The contract shall provide for such compensation for 42405  
services as is agreed to by the director and the board of health 42406  
of the contracting health district. The director may reevaluate 42407  
the credentials of the inspection personnel and their radiation 42408  
detecting and measuring equipment as often as the director 42409  
considers necessary and may terminate any contract with the board 42410  
of health of any health district that, in the director's opinion, 42411  
is not satisfactorily performing the terms of the contract. 42412

(I) The director may enter at all reasonable times upon any 42413  
public or private property to determine compliance with this 42414  
chapter and rules adopted under it. 42415

**Sec. 3748.15.** No facility shall violate or fail to comply 42416  
with any duty imposed by this chapter, fail to pay any 42417  
administrative penalty assessed in accordance with rules adopted 42418  
under division (A)(6) of section 3748.05 of the Revised Code, or 42419  
violate or fail to comply with any valid order ~~of issued or rule~~ 42420  
adopted by the director of health ~~issued or rule of the public~~ 42421  
~~health council adopted~~ under this chapter. Each day a violation 42422  
continues is a separate offense. 42423

**Sec. 3748.20.** (A) The governor, with the advice and consent 42424  
of the senate, shall appoint a radiation advisory council, which 42425  
shall consist of the following members: 42426

(1) One individual who has recognized ability and credentials 42427  
in the field of medical radiation physics; 42428

(2) One individual who has recognized ability and credentials 42429  
in the field of health physics; 42430

(3) One individual holding the degree of doctor of medicine 42431  
or doctor of osteopathy and licensed to practice medicine or 42432  
surgery or osteopathic medicine and surgery, as applicable, under 42433  
Chapter 4731. of the Revised Code who has recognized ability and 42434

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| credentials in the practice of radiology;  | 42435                                     |
| (4) One individual who is licensed to practice dentistry<br>under Chapter 4715. of the Revised Code;   | 42436<br>42437                            |
| (5) One individual holding the degree of doctor of medicine<br>and licensed to practice medicine or surgery under Chapter 4731.<br>of the Revised Code who has recognized ability and credentials in<br>the field of nuclear medicine;   | 42438<br>42439<br>42440<br>42441          |
| (6) One individual who has recognized ability and credentials<br>in the field of public health or environmental science;   | 42442<br>42443                            |
| (7) One individual licensed as a podiatrist under Chapter<br>4731. of the Revised Code;  | 42444<br>42445                            |
| (8) One individual licensed as a chiropractor under Chapter<br>4734. of the Revised Code;  | 42446<br>42447                            |
| (9) One individual who is a qualified radiation safety<br>officer or radiation protection manager from a facility in this<br>state that is licensed for the use of radiation materials;  | 42448<br>42449<br>42450                   |
| (10) One individual who has recognized ability and<br>credentials in the field of radon measurement, mitigation, or<br>health risk management;   | 42451<br>42452<br>42453                   |
| (11) One individual who is a member of a statewide consumer<br>or environmental advocacy organization;   | 42454<br>42455                            |
| (12) One individual representing the public;   | 42456                                     |
| (13) One individual who has recognized ability and experience<br>in the administration and enforcement of federal radiation<br>protection regulations, who shall be a nonvoting member.  | 42457<br>42458<br>42459                   |
| The governor shall make the initial appointments to the<br>council not later than December 7, 1995. Of the initial<br>appointments, four shall be for a term of office of three years,<br>four shall be for a term of office of four years, and four shall<br>be for a term of office of five years. Thereafter, terms of office | 42460<br>42461<br>42462<br>42463<br>42464 |

for the members of the council shall be five years with each term 42465  
ending on the same day of the same month as did the term that it 42466  
succeeds. Each member shall hold office from the date of the 42467  
member's appointment until the end of the term for which the 42468  
member was appointed. Members may be reappointed. Vacancies shall 42469  
be filled in the manner provided for original appointment. Any 42470  
member appointed to fill a vacancy occurring prior to the 42471  
expiration of the term for which the member's predecessor was 42472  
appointed shall hold office for the remainder of that term. A 42473  
member shall continue in office subsequent to the expiration of 42474  
the member's term or until a period of sixty days has elapsed, 42475  
whichever occurs first. 42476

The council shall hold four regular quarterly meetings each 42477  
year. Special meetings may be held at the request of the 42478  
chairperson of the council or the director of health. The 42479  
chairperson shall be selected annually by members of the council 42480  
during the first meeting of the calendar year. Following each 42481  
meeting, the chairperson shall submit a report to the director 42482  
summarizing the activities, discussion, and recommendations of the 42483  
council. Seven voting members of the council constitute a quorum. 42484

Members of the radiation advisory council shall receive a per 42485  
diem compensation in an amount approved by the director and also 42486  
shall be reimbursed for actual expenses incurred in the 42487  
performance of their official duties. 42488

The department of health shall provide the council the 42489  
administrative support necessary to execute its duties. 42490

(B) The radiation advisory council shall do all of the 42491  
following: 42492

(1) Advise and consult with the ~~public health council~~ 42493  
director in the development of rules ~~proposed for adoption to be~~ 42494  
adopted under section 3748.04 of the Revised Code; 42495

(2) Advise and consult with the director concerning the 42496  
administration, implementation, and enforcement of this chapter, 42497  
including the implementation of the specific responsibilities 42498  
delineated in section 3748.05 of the Revised Code; 42499

(3) Advise and consult with the director in the development 42500  
of inspection criteria, procedures, and guidelines to be used in 42501  
the radiation control program established under this chapter and 42502  
rules adopted under it; 42503

(4) Prepare and submit to the director an annual report 42504  
evaluating the department's administration of the radiation 42505  
control program. 42506

(C) The council shall establish committees to focus on 42507  
specific components of the radiation control program established 42508  
under this chapter and rules adopted under it. Chairpersons of the 42509  
committees shall be appointed by the chairperson of the council 42510  
and shall be members of the council. Other members of the 42511  
committees shall be appointed by the chairperson of the council 42512  
and may include individuals who are not members of the council. 42513

The membership and responsibilities of each committee 42514  
established under this division shall be subject to the approval 42515  
of the director. Members of the committees shall be reimbursed for 42516  
actual expenses incurred in the performance of their official 42517  
duties. 42518

Committee reports shall be presented to the council at each 42519  
regular meeting of the council. 42520

**Sec. 3749.02.** The ~~public~~ director of health council shall, 42521  
subject to Chapter 119. of the Revised Code, adopt rules of 42522  
general application throughout the state governing the issuance of 42523  
licenses, approval of plans, layout, construction, sanitation, 42524  
safety, and operation of public swimming pools, public spas, and 42525

special use pools. Such rules shall not be applied to the 42526  
construction, erection, or manufacture of any building to which 42527  
section 3781.06 of the Revised Code is applicable when the 42528  
building or structure is either integral to or appurtenant to a 42529  
public swimming pool, a public spa, or a special use pool. 42530

**Sec. 3749.03.** (A) No person shall construct or install, or 42531  
renovate or otherwise substantially alter, a public swimming pool, 42532  
public spa, or ~~special-use~~ special use pool after September 10, 42533  
1987, until the plans for the pool or spa have been submitted to 42534  
and approved by the director of health. Within thirty days of 42535  
receipt of the plans, the director shall approve or disapprove 42536  
them. The plans and approval required under this division do not 42537  
apply to repairs or ordinary maintenance that does not 42538  
substantially affect the manner of water recirculation or basic 42539  
design of the public swimming pool, public spa, or ~~special-use~~ 42540  
special use pool. 42541

Any person aggrieved by the director's disapproval of plans 42542  
under this division may, within thirty days following receipt of 42543  
the director's notice of disapproval, request a hearing on the 42544  
matter. The hearing shall be held in accordance with Chapter 119. 42545  
of the Revised Code and may be appealed in the manner provided in 42546  
that chapter. 42547

(B) Prior to the issuance of a license to operate a newly 42548  
constructed or altered public swimming pool, public spa, or 42549  
~~special-use~~ special use pool, the director or a licenser 42550  
authorized by the director shall verify that the construction or 42551  
alterations are consistent with the plans submitted and approved 42552  
under division (A) of this section. The director or licenser 42553  
authorized by the director shall have two working days from the 42554  
time notification is received that a public swimming pool, public 42555  
spa, or ~~special-use~~ special use pool is ready for an inspection to 42556

verify the construction or alterations. 42557

(C) ~~The (1) Except as provided in division (C)(2) of this~~ 42558  
section, the fees for the approval of plans are as follows: 42559

~~(1)(a)~~ Five per cent of the total cost of the equipment and 42560  
installation not to exceed two hundred seventy-five dollars for a 42561  
public swimming pool, public spa, or ~~special-use~~ special use pool, 42562  
or a combination thereof, that has less than two thousand square 42563  
feet of surface area; 42564

~~(2)(b)~~ Five per cent of the total cost of the equipment and 42565  
installation not to exceed five hundred fifty dollars for a public 42566  
swimming pool, public spa, ~~special-use~~ special use pool, or a 42567  
combination thereof, that has two thousand or more square feet of 42568  
surface area. 42569

~~After December 31, 1992, the public health council~~ (2) The 42570  
director may, by rule adopted in accordance with Chapter 119. of 42571  
the Revised Code, increase the fees established by this section. 42572

(D) All plan approval fees shall be paid into the state 42573  
treasury to the credit of the general operations fund created by 42574  
section 3701.83 of the Revised Code. The fees shall be 42575  
administered by the director and shall be used solely for the 42576  
administration and enforcement of this chapter and the rules 42577  
adopted thereunder. 42578

(E) Plan approvals issued under this section shall not 42579  
constitute an exemption from the land use and building 42580  
requirements of the political subdivision in which the public 42581  
swimming pool, public spa, or ~~special-use~~ special use pool is or 42582  
is to be located. 42583

**Sec. 3749.04.** (A) No person shall operate or maintain a 42584  
public swimming pool, public spa, or ~~special-use~~ special use pool 42585  
without a license issued by the licensor having jurisdiction. 42586

(B) Every person who intends to operate or maintain an 42587  
existing public swimming pool, public spa, or ~~special-use~~ special 42588  
use pool shall, during the month of April of each year, apply to 42589  
the licenser having jurisdiction for a license to operate the pool 42590  
or spa. Any person proposing to operate or maintain a new or 42591  
otherwise unlicensed public swimming pool, public spa, or 42592  
~~special-use~~ special use pool shall apply to the licenser having 42593  
jurisdiction at least thirty days prior to the intended start of 42594  
operation of the pool or spa. Within thirty days of receipt of an 42595  
application for licensure of a public swimming pool, public spa, 42596  
or ~~special-use~~ special use pool, the licenser shall process the 42597  
application and either issue a license or otherwise respond to the 42598  
applicant regarding the application. 42599

(C) Each license issued shall be effective from the date of 42600  
issuance until the last day of May of the following year. 42601

(D) Each licenser administering and enforcing sections 42602  
3749.01 to 3749.09 of the Revised Code and the rules adopted 42603  
thereunder may establish licensing and inspection fees in 42604  
accordance with section 3709.09 of the Revised Code, which shall 42605  
not exceed the cost of licensing and inspecting public swimming 42606  
pools, public spas, and ~~special-use~~ special use pools. 42607

(E) Except as provided in division (F) of this section and in 42608  
division (B) of section 3749.07 of the Revised Code, all license 42609  
fees collected by a licenser shall be deposited into a swimming 42610  
pool fund, which is hereby created in each health district. The 42611  
fees shall be used by the licenser solely for the purpose of 42612  
administering and enforcing this chapter and the rules adopted 42613  
under this chapter. 42614

(F) An annual license fee established under division (D) of 42615  
this section shall include any additional amount determined by 42616  
rule of the ~~public~~ director of health council, which the board of 42617  
health shall collect and transmit to the director ~~of health~~ 42618

pursuant to section 3709.092 of the Revised Code. The amounts 42619  
collected under this division shall be administered by the 42620  
director of health and shall be used solely for the administration 42621  
and enforcement of this chapter and the rules adopted under this 42622  
chapter. 42623

**Sec. 3752.06.** (A) Unless the owner or operator of a reporting 42624  
facility has submitted to the director of environmental protection 42625  
in connection with the facility a notice of the temporary 42626  
discontinuation of all regulated operations at the facility in 42627  
compliance with division (A)(1) of section 3752.09 of the Revised 42628  
Code, has submitted an application for a waiver in compliance with 42629  
or been issued a waiver under division (A) of section 3752.10 of 42630  
the Revised Code, or, pursuant to division (B) of this section, 42631  
has been granted an extension of time for compliance with 42632  
divisions (A)(4) to (6) of this section, and except as provided in 42633  
division (C) of this section, the owner or operator, not later 42634  
than ninety days after the cessation of all regulated operations 42635  
at the facility, shall do all of the following: 42636

(1) Submit to the director a copy of the most recent 42638  
emergency and hazardous chemical inventory form for the facility 42639  
submitted to the emergency response commission in accordance with 42640  
section 3750.08 of the Revised Code accompanied by a statement 42641  
indicating whether any asbestos-containing materials are present 42642  
at the facility; 42643

(2) Submit to the director a copy of the current hazardous 42644  
chemical list, or of each of the material safety data sheets, that 42645  
the owner or operator is required to have on file with the 42646  
commission under section 3750.07 of the Revised Code in connection 42647  
with the facility; 42648

(3) Submit to the director a list of every stationary tank, 42649

vat, electrical transformer, and vessel of any type that contains 42650  
or is contaminated with regulated substances and that is to remain 42651  
at the facility; a precise description of the location of each; 42652  
and an identification of the regulated substances that are in or 42653  
contaminate each; 42654

(4) Drain or remove all regulated substances from each 42655  
stationary vat, tank, electrical transformer, and vessel, and from 42656  
all piping, that is to remain at the facility and do any or a 42657  
combination of the following: 42658

(a) Transfer the regulated substances to another facility 42659  
owned or operated by the owner or operator. If any regulated 42660  
substances are transferred to another facility of the owner or 42661  
operator located within this state, they shall be transferred to a 42662  
facility that is operating. If any regulated substances are 42663  
transferred to another facility of the owner or operator located 42664  
outside this state, they shall be transferred in compliance with 42665  
the applicable laws governing the receiving facility of the state 42666  
in which the receiving facility is located. 42667

(b) Lawfully transfer ownership of the regulated substances 42668  
to another person through sale or otherwise; 42669

(c) Cause the regulated substances to be transported off the 42670  
premises of the facility and managed in compliance with the 42671  
applicable provisions of Chapter 3734. of the Revised Code and 42672  
rules adopted under that chapter; the "Toxic Substances Control 42673  
Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and 42674  
regulations adopted under it; or the "Resource Conservation and 42675  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 42676  
amended, and regulations adopted under it; or, if transported out 42677  
of state, to be managed in compliance with the waste management 42678  
laws of the state to which the regulated substances are 42679  
transported. 42680

In the case of any regulated substance that also is a hazardous material identified or listed in regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, and that is to be transported off the premises of the facility, the owner or operator of the facility shall transport the regulated substance, or cause it to be transported, in compliance with the applicable rules adopted under ~~division (A) of section 4919.85, division (E) of section 4921.04, division (C) of section 4923.03, or division (C) of section 4923.20~~ Chapters 4905., 4921., and 4923. of the Revised Code.

(5) Remove from the facility all debris, nonstationary equipment and furnishings, nonstationary containers, and motor vehicles and rolling stock that contain or are contaminated with a regulated substance and do any or a combination of the following:

(a) Transfer the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another facility owned or operated by the owner or operator. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located in this state, it shall be transferred to a facility that is operating. If any such debris, equipment, furnishings, containers, or motor vehicles and rolling stock is transferred to another facility of the owner or operator located outside this state, it only shall be transferred in compliance with the applicable laws governing the receiving facility of the state in which the receiving facility is located.

(b) Lawfully transfer ownership of the debris, equipment, furnishings, containers, and motor vehicles and rolling stock to another person through sale or otherwise;

(c) Cause the debris, equipment, furnishings, and containers to be transported off the premises of the facility and managed in

compliance with the applicable provisions of Chapter 3734. of the 42713  
Revised Code and rules adopted under that chapter; the "Toxic 42714  
Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, 42715  
as amended, and regulations adopted under it; or the "Resource 42716  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 42717  
6921, as amended, and regulations adopted under it; or, if 42718  
transported out of state, to be managed in compliance with the 42719  
waste management laws of the state to which the debris, equipment, 42720  
furnishings, and containers are transported. 42721

(6) Make a written certification to the director that the 42722  
actions required by divisions (A)(4) and (5) of this section have 42723  
been completed in compliance with those divisions and any 42724  
applicable rules adopted under section 3752.03 of the Revised 42725  
Code. The certification shall be made on a form prescribed by the 42726  
director and, in addition to the information required in division 42727  
(A) of this section, shall include, without limitation, the 42728  
owner's or operator's name and the address of the owner's or 42729  
operator's principal office. 42730

(B) Upon the written request of the owner or operator of a 42731  
facility who is subject to division (A) of this section, the 42732  
director, at ~~his~~ the director's discretion, may extend the length 42733  
of time required for compliance with divisions (A)(4) to (6) of 42734  
this section for any period of time the director considers 42735  
reasonable and necessary if the director finds from the request 42736  
that either of the following applies: 42737

(1) The inability of the owner or operator to complete the 42738  
required actions within the time prescribed in that division is 42739  
due to circumstances that are temporary in nature and are beyond 42740  
the control of the owner or operator; 42741

(2) The owner or operator, exercising reasonable diligence, 42742  
is unable to complete the required actions within the time 42743  
prescribed in that division due to facility size, operational 42744

complexity, or other such relevant factors. 42745

Upon making a decision on a request submitted under division 42746  
(B) of this section, the director shall mail notice of ~~his~~ the 42747  
decision to the owner or operator by certified mail, return 42748  
receipt requested, and, if the request was approved, notice of the 42749  
length of the extension. 42750

(C) An owner or operator of a reporting facility who is 42751  
subject to this section is not required to perform the removal 42752  
actions required by it or to make the certification required by 42753  
division (A)(6) of this section with respect to hazardous waste 42754  
stored, treated, or disposed of at the facility, or portion of the 42755  
facility, for which the owner holds a valid hazardous waste 42756  
facility installation and operation permit or renewal permit 42757  
issued under section 3734.05 of the Revised Code or has obtained a 42758  
generator identification number pursuant to rules adopted under 42759  
section 3734.12 of the Revised Code. Instead, the owner shall 42760  
comply with the applicable closure and post-closure care 42761  
requirements established in rules adopted under section 3734.12 of 42762  
the Revised Code. 42763

(D) No person shall fail to comply with any provision of 42764  
division (A) of this section within the time required by that 42765  
division and any extension of that time granted under division (B) 42766  
of this section, as appropriate. 42767

**Sec. 3770.06.** (A) There is hereby created the state lottery 42768  
gross revenue fund, which shall be in the custody of the treasurer 42769  
of state but shall not be part of the state treasury. All gross 42770  
revenues received from sales of lottery tickets, fines, fees, and 42771  
related proceeds in connection with the statewide lottery and all 42772  
gross proceeds from statewide joint lottery games shall be 42773  
deposited into the fund. The treasurer of state shall invest any 42774  
portion of the fund not needed for immediate use in the same 42775

manner as, and subject to all provisions of law with respect to 42776  
the investment of, state funds. The treasurer of state shall 42777  
disburse money from the fund on order of the director of the state 42778  
lottery commission or the director's designee. 42779

Except for gross proceeds from statewide joint lottery games, 42780  
all revenues of the state lottery gross revenue fund that are not 42781  
paid to holders of winning lottery tickets, that are not required 42782  
to meet short-term prize liabilities, that are not credited to 42783  
lottery sales agents in the form of bonuses, commissions, or 42784  
reimbursements, that are not paid to financial institutions to 42785  
reimburse those institutions for sales agent nonsufficient funds, 42786  
and that are collected from sales agents for remittance to 42787  
insurers under contract to provide sales agent bonding services 42788  
shall be transferred to the state lottery fund, which is hereby 42789  
created in the state treasury. In addition, all revenues of the 42790  
state lottery gross revenue fund that represent the gross proceeds 42791  
from the statewide joint lottery games and that are not paid to 42792  
holders of winning lottery tickets, that are not required to meet 42793  
short-term prize liabilities, that are not credited to lottery 42794  
sales agents in the form of bonuses, commissions, or 42795  
reimbursements, and that are not necessary to cover operating 42796  
expenses associated with those games or to otherwise comply with 42797  
the agreements signed by the governor that the director enters 42798  
into under division (J) of section 3770.02 of the Revised Code or 42799  
the rules the commission adopts under division (B)(5) of section 42800  
3770.03 of the Revised Code shall be transferred to the state 42801  
lottery fund. All investment earnings of the fund shall be 42802  
credited to the fund. Moneys shall be disbursed from the fund 42803  
pursuant to vouchers approved by the director. Total disbursements 42804  
for monetary prize awards to holders of winning lottery tickets in 42805  
connection with the statewide lottery and purchases of goods and 42806  
services awarded as prizes to holders of winning lottery tickets 42807  
shall be of an amount equal to at least fifty per cent of the 42808

total revenue accruing from the sale of lottery tickets. 42809

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 42810  
there is hereby established in the state treasury the lottery 42811  
profits education fund. Whenever, in the judgment of the director 42812  
of ~~budget and management~~ the state lottery commission, the amount 42813  
to the credit of the state lottery fund that does not represent 42814  
proceeds from statewide joint lottery games is in excess of that 42815  
needed to meet the maturing obligations of the commission and as 42816  
working capital for its further operations, the director of the 42817  
state lottery commission shall recommend the amount of the excess 42818  
to be transferred to the lottery profits education fund, and the 42819  
director of budget and management may transfer the excess to the 42820  
lottery profits education fund in connection with the statewide 42821  
lottery. In addition, whenever, in the judgment of the director of 42822  
~~budget and management~~ the state lottery commission, the amount to 42823  
the credit of the state lottery fund that represents proceeds from 42824  
statewide joint lottery games equals the entire net proceeds of 42825  
those games as described in division (B)(5) of section 3770.03 of 42826  
the Revised Code and the rules adopted under that division, the 42827  
director of the state lottery commission shall recommend the 42828  
amount of the proceeds to be transferred to the lottery profits 42829  
education fund, and the director of budget and management may 42830  
transfer those proceeds to the lottery profits education fund. 42831  
~~There shall also be credited to the fund any repayments of moneys~~ 42832  
~~loaned from the educational excellence investment fund.~~ Investment 42833  
earnings of the lottery profits education fund shall be credited 42834  
to the fund. 42835

The lottery profits education fund shall be used solely for 42836  
the support of elementary, secondary, vocational, and special 42837  
education programs as determined in appropriations made by the 42838  
general assembly, or as provided in applicable bond proceedings 42839  
for the payment of debt service on obligations issued to pay costs 42840

of capital facilities, including those for a system of common 42841  
schools throughout the state pursuant to section 2n of Article 42842  
VIII, Ohio Constitution. When determining the availability of 42843  
money in the lottery profits education fund, the director of 42844  
budget and management may consider all balances and estimated 42845  
revenues of the fund. 42846

(C) There is hereby established in the state treasury the 42847  
deferred prizes trust fund. With the approval of the director of 42848  
budget and management, an amount sufficient to fund annuity prizes 42849  
shall be transferred from the state lottery fund and credited to 42850  
the trust fund. The treasurer of state shall credit all earnings 42851  
arising from investments purchased under this division to the 42852  
trust fund. Within sixty days after the end of each fiscal year, 42853  
the treasurer of state shall certify to the director of budget and 42854  
management whether the actuarial amount of the trust fund is 42855  
sufficient over the fund's life for continued funding of all 42856  
remaining deferred prize liabilities as of the last day of the 42857  
fiscal year just ended. Also, within that sixty days, the director 42858  
of budget and management shall certify the amount of investment 42859  
earnings necessary to have been credited to the trust fund during 42860  
the fiscal year just ending to provide for such continued funding 42861  
of deferred prizes. Any earnings credited in excess of the latter 42862  
certified amount shall be transferred to the lottery profits 42863  
education fund. 42864

To provide all or a part of the amounts necessary to fund 42865  
deferred prizes awarded by the commission in connection with the 42866  
statewide lottery, the treasurer of state, in consultation with 42867  
the commission, may invest moneys contained in the deferred prizes 42868  
trust fund which represents proceeds from the statewide lottery in 42869  
obligations of the type permitted for the investment of state 42870  
funds but whose maturities are thirty years or less. 42871  
Notwithstanding the requirements of any other section of the 42872

Revised Code, to provide all or part of the amounts necessary to 42873  
fund deferred prizes awarded by the commission in connection with 42874  
statewide joint lottery games, the treasurer of state, in 42875  
consultation with the commission, may invest moneys in the trust 42876  
fund which represent proceeds derived from the statewide joint 42877  
lottery games in accordance with the rules the commission adopts 42878  
under division (B)(5) of section 3770.03 of the Revised Code. 42879  
Investments of the trust fund are not subject to the provisions of 42880  
division (A)(10) of section 135.143 of the Revised Code limiting 42881  
to twenty-five per cent the amount of the state's total average 42882  
portfolio that may be invested in debt interests and limiting to 42883  
one-half of one per cent the amount that may be invested in debt 42884  
interests of a single issuer. 42885

All purchases made under this division shall be effected on a 42886  
delivery versus payment method and shall be in the custody of the 42887  
treasurer of state. 42888

The treasurer of state may retain an investment advisor, if 42889  
necessary. The commission shall pay any costs incurred by the 42890  
treasurer of state in retaining an investment advisor. 42891

(D) The auditor of state shall conduct annual audits of all 42892  
funds and any other audits as the auditor of state or the general 42893  
assembly considers necessary. The auditor of state may examine all 42894  
records, files, and other documents of the commission, and records 42895  
of lottery sales agents that pertain to their activities as 42896  
agents, for purposes of conducting authorized audits. 42897

The state lottery commission shall establish an internal 42898  
audit program before the beginning of each fiscal year, subject to 42899  
the approval of the auditor of state. At the end of each fiscal 42900  
year, the commission shall prepare and submit an annual report to 42901  
the auditor of state for the auditor of state's review and 42902  
approval, specifying the internal audit work completed by the end 42903  
of that fiscal year and reporting on compliance with the annual 42904

internal audit program. The form and content of the report shall 42905  
be prescribed by the auditor of state under division (C) of 42906  
section 117.20 of the Revised Code. 42907

(E) Whenever, in the judgment of the director of budget and 42908  
management, an amount of net state lottery proceeds is necessary 42909  
to be applied to the payment of debt service on obligations, all 42910  
as defined in sections 151.01 and 151.03 of the Revised Code, the 42911  
director shall transfer that amount directly from the state 42912  
lottery fund or from the lottery profits education fund to the 42913  
bond service fund defined in those sections. The provisions of 42914  
this division are subject to any prior pledges or obligation of 42915  
those amounts to the payment of bond service charges as defined in 42916  
division (C) of section 3318.21 of the Revised Code, as referred 42917  
to in division (B) of this section. 42918

**Sec. 3781.03.** (A) The state fire marshal, the fire chief of a 42919  
municipal corporation that has a fire department, or the fire 42920  
chief of a township that has a fire department shall enforce the 42921  
provisions of this chapter and Chapter 3791. of the Revised Code 42922  
that relate to fire prevention. 42923

(B) The superintendent of ~~labor~~ industrial compliance, or the 42924  
building inspector or commissioner of buildings in a municipal 42925  
corporation, county, or township in which the building department 42926  
is certified by the board of building standards under section 42927  
3781.10 of the Revised Code shall enforce in the jurisdiction of 42928  
each entity all the provisions in this chapter and Chapter 3791. 42929  
of the Revised Code and any rules adopted pursuant to those 42930  
chapters that relate to the construction, arrangement, and 42931  
erection of all buildings or parts of buildings, as defined in 42932  
section 3781.06 of the Revised Code, including the sanitary 42933  
condition of those buildings in relation to heating and 42934  
ventilation. 42935

(C) The division of ~~labor~~ industrial compliance in the 42936  
department of commerce, boards of health of health districts, 42937  
certified departments of building inspection of municipal 42938  
corporations, and county building departments that have authority 42939  
to perform inspections pursuant to a contract under division 42940  
(C)(1) of section 3703.01 of the Revised Code, subject to Chapter 42941  
3703. of the Revised Code, shall enforce this chapter and Chapter 42942  
3791. of the Revised Code and the rules adopted pursuant to those 42943  
chapters that relate to plumbing. Building drains are considered 42944  
plumbing for the purposes of enforcement of those chapters. 42945

(D)(1) In accordance with Chapter 3703. of the Revised Code, 42946  
the department of the city engineer, in cities having such 42947  
departments, the boards of health of health districts, or the 42948  
sewer purveyor, as appropriate, shall have complete authority to 42949  
supervise and regulate the entire sewerage and drainage system in 42950  
the jurisdiction in which it is exercising the authority described 42951  
in this division, including the building sewer and all laterals 42952  
draining into the street sewers. 42953

(2) In accordance with Chapter 3703. of the Revised Code, the 42954  
department of the city engineer, the boards of health of health 42955  
districts, or the sewer purveyor, as appropriate, shall control 42956  
and supervise the installation and construction of all drains and 42957  
sewers that become a part of the sewerage system and shall issue 42958  
all the necessary permits and licenses for the construction and 42959  
installation of all building sewers and of all other lateral 42960  
drains that empty into the main sewers. The department of the city 42961  
engineer, the boards of health of health districts, and the sewer 42962  
purveyor, as appropriate, shall keep a permanent record of the 42963  
installation and location of every drain and sewer of the drainage 42964  
and sewerage system of the jurisdiction in which it has exercised 42965  
the authority described in this division. 42966

(E) This section does not exempt any officer or department 42967

from the obligation to enforce this chapter and Chapter 3791. of 42968  
the Revised Code. 42969

**Sec. 3781.06.** (A)(1) Any building that may be used as a place 42970  
of resort, assembly, education, entertainment, lodging, dwelling, 42971  
trade, manufacture, repair, storage, traffic, or occupancy by the 42972  
public, any residential building, and all other buildings or parts 42973  
and appurtenances of those buildings erected within this state, 42974  
shall be so constructed, erected, equipped, and maintained that 42975  
they shall be safe and sanitary for their intended use and 42976  
occupancy. 42977

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 42978  
Revised Code shall be construed to limit the power of the ~~public~~ 42979  
~~health council~~ manufactured homes commission to adopt rules of 42980  
uniform application governing manufactured home parks pursuant to 42981  
section ~~3733.02~~ 4781.26 of the Revised Code. 42982

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 42983  
Code do not apply to either of the following: 42984

(1) Buildings or structures that are incident to the use for 42985  
agricultural purposes of the land on which the buildings or 42986  
structures are located, provided those buildings or structures are 42987  
not used in the business of retail trade. For purposes of this 42988  
division, a building or structure is not considered used in the 42989  
business of retail trade if fifty per cent or more of the gross 42990  
income received from sales of products in the building or 42991  
structure by the owner or operator is from sales of products 42992  
produced or raised in a normal crop year on farms owned or 42993  
operated by the seller. 42994

(2) Existing single-family, two-family, and three-family 42995  
detached dwelling houses for which applications have been 42996  
submitted to the director of job and family services pursuant to 42997  
section 5104.03 of the Revised Code for the purposes of operating 42998

type A family day-care homes as defined in section 5104.01 of the Revised Code. 42999  
43000

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code: 43001  
43002

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry. 43003  
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(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances. 43007  
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(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code. 43011  
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(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all 43022  
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applicable federal construction and safety standards. 43030

(5) "Permanent foundation" means permanent masonry, concrete, 43031  
or a footing or foundation approved by the manufactured homes 43032  
commission pursuant to Chapter 4781. of the Revised Code, to which 43033  
a manufactured or mobile home may be affixed. 43034

(6) "Permanently sited manufactured home" means a 43035  
manufactured home that meets all of the following criteria: 43036

(a) The structure is affixed to a permanent foundation and is 43037  
connected to appropriate facilities; 43038

(b) The structure, excluding any addition, has a width of at 43039  
least twenty-two feet at one point, a length of at least 43040  
twenty-two feet at one point, and a total living area, excluding 43041  
garages, porches, or attachments, of at least nine hundred square 43042  
feet; 43043

(c) The structure has a minimum 3:12 residential roof pitch, 43044  
conventional residential siding, and a six-inch minimum eave 43045  
overhang, including appropriate guttering; 43046

(d) The structure was manufactured after January 1, 1995; 43047

(e) The structure is not located in a manufactured home park 43048  
as defined by section ~~3733.01~~ 4781.01 of the Revised Code. 43049

(7) "Safe," with respect to a building, means it is free from 43050  
danger or hazard to the life, safety, health, or welfare of 43051  
persons occupying or frequenting it, or of the public and from 43052  
danger of settlement, movement, disintegration, or collapse, 43053  
whether such danger arises from the methods or materials of its 43054  
construction or from equipment installed therein, for the purpose 43055  
of lighting, heating, the transmission or utilization of electric 43056  
current, or from its location or otherwise. 43057

(8) "Sanitary," with respect to a building, means it is free 43058  
from danger or hazard to the health of persons occupying or 43059

frequenting it or to that of the public, if such danger arises 43060  
from the method or materials of its construction or from any 43061  
equipment installed therein, for the purpose of lighting, heating, 43062  
ventilating, or plumbing. 43063

(9) "Residential building" means a one-family, two-family, or 43064  
three-family dwelling house, and any accessory structure 43065  
incidental to that dwelling house. "Residential building" includes 43066  
a one-family, two-family, or three-family dwelling house that is 43067  
used as a model to promote the sale of a similar dwelling house. 43068  
"Residential building" does not include an industrialized unit as 43069  
defined by division (C)(3) of this section, a manufactured home as 43070  
defined by division (C)(4) of this section, or a mobile home as 43071  
defined by division (O) of section 4501.01 of the Revised Code. 43072

(10) "Nonresidential building" means any building that is not 43073  
a residential building or a manufactured or mobile home. 43074

(11) "Accessory structure" means a structure that is attached 43075  
to a residential building and serves the principal use of the 43076  
residential building. "Accessory structure" includes, but is not 43077  
limited to, a garage, porch, or screened-in patio. 43078

**Sec. 3781.102.** (A) Any county or municipal building 43079  
department certified pursuant to division (E) of section 3781.10 43080  
of the Revised Code as of September 14, 1970, and that, as of that 43081  
date, was inspecting single-family, two-family, and three-family 43082  
residences, and any township building department certified 43083  
pursuant to division (E) of section 3781.10 of the Revised Code, 43084  
is hereby declared to be certified to inspect single-family, 43085  
two-family, and three-family residences containing industrialized 43086  
units, and shall inspect the buildings or classes of buildings 43087  
subject to division (E) of section 3781.10 of the Revised Code. 43088

(B) Each board of county commissioners may adopt, by 43089  
resolution, rules establishing standards and providing for the 43090

licensing of electrical and heating, ventilating, and air 43091  
conditioning contractors who are not required to hold a valid and 43092  
unexpired license pursuant to Chapter 4740. of the Revised Code. 43093

Rules adopted by a board of county commissioners pursuant to 43094  
this division may be enforced within the unincorporated areas of 43095  
the county and within any municipal corporation where the 43096  
legislative authority of the municipal corporation has contracted 43097  
with the board for the enforcement of the county rules within the 43098  
municipal corporation pursuant to section 307.15 of the Revised 43099  
Code. The rules shall not conflict with rules adopted by the board 43100  
of building standards pursuant to section 3781.10 of the Revised 43101  
Code or by the department of commerce pursuant to Chapter 3703. of 43102  
the Revised Code. This division does not impair or restrict the 43103  
power of municipal corporations under Section 3 of Article XVIII, 43104  
Ohio Constitution, to adopt rules concerning the erection, 43105  
construction, repair, alteration, and maintenance of buildings and 43106  
structures or of establishing standards and providing for the 43107  
licensing of specialty contractors pursuant to section 715.27 of 43108  
the Revised Code. 43109

A board of county commissioners, pursuant to this division, 43110  
may require all electrical contractors and heating, ventilating, 43111  
and air conditioning contractors, other than those who hold a 43112  
valid and unexpired license issued pursuant to Chapter 4740. of 43113  
the Revised Code, to successfully complete an examination, test, 43114  
or demonstration of technical skills, and may impose a fee and 43115  
additional requirements for a license to engage in their 43116  
respective occupations within the jurisdiction of the board's 43117  
rules under this division. 43118

(C) No board of county commissioners shall require any 43119  
specialty contractor who holds a valid and unexpired license 43120  
issued pursuant to Chapter 4740. of the Revised Code to 43121  
successfully complete an examination, test, or demonstration of 43122

technical skills in order to engage in the type of contracting for 43123  
which the license is held, within the unincorporated areas of the 43124  
county and within any municipal corporation whose legislative 43125  
authority has contracted with the board for the enforcement of 43126  
county regulations within the municipal corporation, pursuant to 43127  
section 307.15 of the Revised Code. 43128

(D) A board may impose a fee for registration of a specialty 43129  
contractor who holds a valid and unexpired license issued pursuant 43130  
to Chapter 4740. of the Revised Code before that specialty 43131  
contractor may engage in the type of contracting for which the 43132  
license is held within the unincorporated areas of the county and 43133  
within any municipal corporation whose legislative authority has 43134  
contracted with the board for the enforcement of county 43135  
regulations within the municipal corporation, pursuant to section 43136  
307.15 of the Revised Code, provided that the fee is the same for 43137  
all specialty contractors who wish to engage in that type of 43138  
contracting. If a board imposes such a fee, the board immediately 43139  
shall permit a specialty contractor who presents proof of holding 43140  
a valid and unexpired license and pays the required fee to engage 43141  
in the type of contracting for which the license is held within 43142  
the unincorporated areas of the county and within any municipal 43143  
corporation whose legislative authority has contracted with the 43144  
board for the enforcement of county regulations within the 43145  
municipal corporation, pursuant to section 307.15 of the Revised 43146  
Code. 43147

(E) The political subdivision associated with each municipal, 43148  
township, and county building department the board of building 43149  
standards certifies pursuant to division (E) of section 3781.10 of 43150  
the Revised Code may prescribe fees to be paid by persons, 43151  
political subdivisions, or any department, agency, board, 43152  
commission, or institution of the state, for the acceptance and 43153  
approval of plans and specifications, and for the making of 43154

inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code. 43155  
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(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following: 43157  
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(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings; 43160  
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(2) One per cent of the fees the political subdivision collects in connection with residential buildings. 43162  
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(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code. 43164  
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(2) All money credited to the ~~labor~~ industrial compliance operating fund under this division shall be used exclusively for the following: 43171  
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(a) Operating costs of the board; 43174

(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code; 43175  
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(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code. 43178  
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(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of 43181  
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satisfying the requirements of rules adopted under that division, 43185  
a valid and unexpired license issued pursuant to Chapter 4740. of 43186  
the Revised Code that is held by an electrical or heating, 43187  
ventilating, and air conditioning contractor, for the 43188  
construction, replacement, maintenance, or repair of one-family, 43189  
two-family, or three-family dwelling houses or accessory 43190  
structures incidental to those dwelling houses. 43191

(I) A board of county commissioners shall not register a 43192  
specialty contractor who is required to hold a license under 43193  
Chapter 4740. of the Revised Code but does not hold a valid 43194  
license issued under that chapter. 43195

(J) As used in this section, "specialty contractor" means a 43196  
heating, ventilating, and air conditioning contractor, 43197  
refrigeration contractor, electrical contractor, plumbing 43198  
contractor, or hydronics contractor, as those contractors are 43199  
described in Chapter 4740. of the Revised Code. 43200

**Sec. 3781.11.** (A) The rules of the board of building 43201  
standards shall: 43202

(1) For nonresidential buildings, provide uniform minimum 43203  
standards and requirements, and for residential buildings, provide 43204  
standards and requirements that are uniform throughout the state, 43205  
for construction and construction materials, including 43206  
construction of industrialized units, to make residential and 43207  
nonresidential buildings safe and sanitary as defined in section 43208  
3781.06 of the Revised Code; 43209

(2) Formulate such standards and requirements, so far as may 43210  
be practicable, in terms of performance objectives, so as to make 43211  
adequate performance for the use intended the test of 43212  
acceptability; 43213

(3) Permit, to the fullest extent feasible, the use of 43214

materials and technical methods, devices, and improvements, 43215  
including the use of industrialized units which tend to reduce the 43216  
cost of construction and erection without affecting minimum 43217  
requirements for the health, safety, and security of the occupants 43218  
or users of buildings or industrialized units and without 43219  
preferential treatment of types or classes of materials or 43220  
products or methods of construction; 43221

(4) Encourage, so far as may be practicable, the 43222  
standardization of construction practices, methods, equipment, 43223  
material, and techniques, including methods employed to produce 43224  
industrialized units; 43225

(5) Not require any alteration or repair of any part of a 43226  
school building owned by a chartered nonpublic school or a city, 43227  
local, exempted village, or joint vocational school district and 43228  
operated in conjunction with any primary or secondary school 43229  
program that is not being altered or repaired if all of the 43230  
following apply: 43231

(a) The school building meets all of the applicable building 43232  
code requirements in existence at the time of the construction of 43233  
the building. 43234

(b) The school building otherwise satisfies the requirements 43235  
of section 3781.06 of the Revised Code. 43236

(c) The part of the school building altered or repaired 43237  
conforms to all rules of the board existing on the date of the 43238  
repair or alteration. 43239

(6) Not require any alteration or repair to any part of a 43240  
workshop or factory that is not otherwise being altered, repaired, 43241  
or added to if all of the following apply: 43242

(a) The workshop or factory otherwise satisfies the 43243  
requirements of section 3781.06 of the Revised Code. 43244

(b) The part of the workshop or factory altered, repaired, or added conforms to all rules of the board existing on the date of plan approval of the repair, alteration, or addition.

(B) The rules of the board shall supersede and govern any order, standard, or rule of the division of ~~labor~~ industrial compliance in the department of commerce, division of the state fire marshal, the department of health, and of counties and townships, in all cases where such orders, standards, or rules are in conflict with the rules of the board, except that rules adopted and orders issued by the state fire marshal pursuant to Chapter 3743. of the Revised Code prevail in the event of a conflict.

(C) The construction, alteration, erection, and repair of buildings including industrialized units, and the materials and devices of any kind used in connection with them and the heating and ventilating of them and the plumbing and electric wiring in them shall conform to the statutes of this state or the rules adopted and promulgated by the board, and to provisions of local ordinances not inconsistent therewith. Any building, structure, or part thereof, constructed, erected, altered, manufactured, or repaired not in accordance with the statutes of this state or with the rules of the board, and any building, structure, or part thereof in which there is installed, altered, or repaired any fixture, device, and material, or plumbing, heating, or ventilating system, or electric wiring not in accordance with such statutes or rules is a public nuisance.

(D) As used in this section:

(1) "Nonpublic school" means a chartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(2) "Workshop or factory" includes manufacturing, mechanical, electrical, mercantile, art, and laundering establishments,

printing, telegraph, and telephone offices, railroad depots, and 43276  
memorial buildings, but does not include hotels and tenement and 43277  
apartment houses. 43278

**Sec. 3781.112.** (A) As used in this section, "secured 43279  
facility" means any of the following: 43280

(1) A maternity ~~boardinghouse or lying-in hospital unit,~~ 43281  
newborn care nursery, or maternity home licensed under ~~section~~ 43282  
~~3711.02~~ Chapter 3711. of the Revised Code; 43283

(2) A pediatric intensive care unit subject to rules adopted 43284  
by the director of health pursuant to section 3702.11 of the 43285  
Revised Code; 43286

(3) A children's hospital, as defined in section ~~3702.51~~ 43287  
3727.01 of the Revised Code; 43288

(4) A hospital that is licensed under section 5119.20 of the 43289  
Revised Code to receive mentally ill persons; 43290

(5) The portion of a nursing home licensed under section 43291  
3721.02 of the Revised Code or in accordance with section 3721.09 43292  
of the Revised Code in which specialized care is provided to 43293  
residents of the nursing home who have physical or mental 43294  
conditions that require a resident to be restricted in the 43295  
resident's freedom of movement for the health and safety of the 43296  
resident, the staff attending the resident, or the general public. 43297

(B) A secured facility may take reasonable steps in 43298  
accordance with rules the board of building standards adopts under 43299  
division (A) of section 3781.10 of the Revised Code and in 43300  
accordance with the state fire code the fire marshal adopts under 43301  
section 3737.82 of the Revised Code, to deny egress to confine and 43302  
protect patients or residents of the secured facility who are not 43303  
capable of self-preservation. A secured facility that wishes to 43304  
deny egress to those patients or residents may use delayed-egress 43305

doors and electronically coded doors to deny egress, on the 43306  
condition that those doors are installed and used in accordance 43307  
with rules the board of building standards adopts under division 43308  
(A) of section 3781.10 of the Revised Code and in accordance with 43309  
the state fire code the fire marshal adopts under section 3737.82 43310  
of the Revised Code. A secured facility also may install 43311  
controlled-egress locks, in compliance with rules the board of 43312  
building standards adopts under division (A) section 3781.10 of 43313  
the Revised Code and in compliance with the state fire code the 43314  
fire marshal adopts under section 3737.82 of the Revised Code, in 43315  
areas of the secured facility where patients or residents who have 43316  
physical or mental conditions that would endanger the patients or 43317  
residents, the staff attending the patients or residents, or the 43318  
general public if those patients or residents are not restricted 43319  
in their freedom of movement. A secured facility that uses 43320  
delayed-egress doors and electronically coded doors, 43321  
controlled-egress locks, or both, shall do both of the following: 43322

(1) Provide continuous, twenty-four-hour custodial care to 43323  
the patients or residents of the facility; 43324

(2) Establish a system to evacuate patients or residents in 43325  
the event of fire or other emergency. 43326

**Sec. 3783.05.** The board of building standards, in accordance 43327  
with Chapters 119., 3781., and 3791. of the Revised Code, shall 43328  
adopt, amend, or repeal such rules as may be reasonably necessary 43329  
to administer this chapter. All fees collected by the board 43330  
pursuant to this chapter shall be paid into the state treasury to 43331  
the credit of the ~~labor~~ industrial compliance operating fund 43332  
created in section 121.084 of the Revised Code. 43333

**Sec. 3791.02.** No owner, or person having the control as an 43334  
officer or member of a board or committee or otherwise of any 43335

opera house, hall, theater, church, schoolhouse, college, academy, 43336  
seminary, infirmary, sanitarium, children's home, hospital, 43337  
medical institute, asylum, memorial building, armory, assembly 43338  
hall, or other building for the assemblage or betterment of people 43339  
shall fail to obey any order of the state fire marshal, boards of 43340  
health of city and general health districts, the building 43341  
inspector or commissioner in cities having a building inspection 43342  
department, or the superintendent of ~~labor~~ industrial compliance 43343  
in the department of commerce under Chapters 3781. and 3791. of 43344  
the Revised Code or rules or regulations adopted pursuant thereto. 43345

Whoever violates this section shall be fined not more than 43346  
one thousand dollars. 43347

**Sec. 3791.04.** (A)(1) Before beginning the construction, 43348  
erection, or manufacture of any building to which section 3781.06 43349  
of the Revised Code applies, including all industrialized units, 43350  
the owner of that building, in addition to any other submission 43351  
required by law, shall submit plans or drawings, specifications, 43352  
and data prepared for the construction, erection, equipment, 43353  
alteration, or addition that indicate the portions that have been 43354  
approved pursuant to section 3781.12 of the Revised Code and for 43355  
which no further approval is required, to the municipal, township, 43356  
or county building department having jurisdiction unless one of 43357  
the following applies: 43358

(a) If no municipal, township, or county building department 43359  
certified for nonresidential buildings pursuant to division (E) of 43360  
section 3781.10 of the Revised Code has jurisdiction, the owner 43361  
shall make the submissions described in division (A)(1) of this 43362  
section to the superintendent of ~~labor~~ industrial compliance. 43363

(b) If no certified municipal, township, or county building 43364  
department certified for residential buildings pursuant to 43365  
division (E) of section 3781.10 of the Revised Code has 43366

jurisdiction, the owner is not required to make the submissions 43367  
described in division (A)(1) of this section. 43368

(2)(a) The seal of an architect registered under Chapter 43369  
4703. of the Revised Code or an engineer registered under Chapter 43370  
4733. of the Revised Code is required for any plans, drawings, 43371  
specifications, or data submitted for approval, unless the plans, 43372  
drawings, specifications, or data are permitted to be prepared by 43373  
persons other than registered architects pursuant to division (C) 43374  
or (D) of section 4703.18 of the Revised Code, or by persons other 43375  
than registered engineers pursuant to division (C) or (D) of 43376  
section 4733.18 of the Revised Code. 43377

(b) No seal is required for any plans, drawings, 43378  
specifications, or data submitted for approval for any residential 43379  
buildings, as defined in section 3781.06 of the Revised Code, or 43380  
erected as industrialized one-, two-, or three-family units or 43381  
structures within the meaning of "industrialized unit" as defined 43382  
in section 3781.06 of the Revised Code. 43383

(c) No seal is required for approval of the installation of 43384  
replacement equipment or systems that are similar in type or 43385  
capacity to the equipment or systems being replaced. No seal is 43386  
required for approval for any new construction, improvement, 43387  
alteration, repair, painting, decorating, or other modification of 43388  
any buildings or structures subject to sections 3781.06 to 3781.18 43389  
and 3791.04 of the Revised Code if the proposed work does not 43390  
involve technical design analysis, as defined by rule adopted by 43391  
the board of building standards. 43392

(B) No owner shall proceed with the construction, erection, 43393  
alteration, or equipment of any building until the plans or 43394  
drawings, specifications, and data have been approved as this 43395  
section requires, or the industrialized unit inspected at the 43396  
point of origin. No plans or specifications shall be approved or 43397  
inspection approval given unless the building represented would, 43398

if constructed, repaired, erected, or equipped, comply with 43399  
Chapters 3781. and 3791. of the Revised Code and any rule made 43400  
under those chapters. 43401

(C) The approval of plans or drawings and specifications or 43402  
data pursuant to this section is invalid if construction, 43403  
erection, alteration, or other work upon the building has not 43404  
commenced within twelve months of the approval of the plans or 43405  
drawings and specifications. One extension shall be granted for an 43406  
additional twelve-month period if the owner requests at least ten 43407  
days in advance of the expiration of the permit and upon payment 43408  
of a fee not to exceed one hundred dollars. If in the course of 43409  
construction, work is delayed or suspended for more than six 43410  
months, the approval of plans or drawings and specifications or 43411  
data is invalid. Two extensions shall be granted for six months 43412  
each if the owner requests at least ten days in advance of the 43413  
expiration of the permit and upon payment of a fee for each 43414  
extension of not more than one hundred dollars. Before any work 43415  
may continue on the construction, erection, alteration, or 43416  
equipment of any building for which the approval is invalid, the 43417  
owner of the building shall resubmit the plans or drawings and 43418  
specifications for approval pursuant to this section. 43419

(D) Subject to section 3791.042 of the Revised Code, the 43420  
board of building standards or the legislative authority of a 43421  
municipal corporation, township, or county, by rule, may regulate 43422  
the requirements for the submission of plans and specifications to 43423  
the respective enforcing departments and for processing by those 43424  
departments. The board of building standards or the legislative 43425  
authority of a municipal corporation, township, or county may 43426  
adopt rules to provide for the approval, subject to section 43427  
3791.042 of the Revised Code, by the department having 43428  
jurisdiction of the plans for construction of a foundation or any 43429  
other part of a building or structure before the complete plans 43430

and specifications for the entire building or structure are 43431  
submitted. When any plans are approved by the department having 43432  
jurisdiction, the structure and every particular represented by 43433  
and disclosed in those plans shall, in the absence of fraud or a 43434  
serious safety or sanitation hazard, be conclusively presumed to 43435  
comply with Chapters 3781. and 3791. of the Revised Code and any 43436  
rule issued pursuant to those chapters, if constructed, altered, 43437  
or repaired in accordance with those plans and any rule in effect 43438  
at the time of approval. 43439

(E) The approval of plans and specifications, including 43440  
inspection of industrialized units, under this section is a 43441  
"license" and the failure to approve plans or specifications as 43442  
submitted or to inspect the unit at the point of origin within 43443  
thirty days after the plans or specifications are filed or the 43444  
request to inspect the industrialized unit is made, the 43445  
disapproval of plans and specifications, or the refusal to approve 43446  
an industrialized unit following inspection at the point of origin 43447  
is "an adjudication order denying the issuance of a license" 43448  
requiring an "adjudication hearing" as provided by sections 119.07 43449  
to 119.13 of the Revised Code and as modified by sections 3781.031 43450  
and 3781.19 of the Revised Code. An adjudication order denying the 43451  
issuance of a license shall specify the reasons for that denial. 43452

(F) The board of building standards shall not require the 43453  
submission of site preparation plans or plot plans to the division 43454  
of ~~labor~~ industrial compliance when industrialized units are used 43455  
exclusively as one-, two-, or three-family dwellings. 43456

(G) Notwithstanding any procedures the board establishes, if 43457  
the agency having jurisdiction objects to any portion of the plans 43458  
or specifications, the owner or the owner's representative may 43459  
request the agency to issue conditional approval to proceed with 43460  
construction up to the point of the objection. Approval shall be 43461  
issued only when the objection results from conflicting 43462

interpretations of the rules of the board of building standards 43463  
rather than the application of specific technical requirements of 43464  
the rules. Approval shall not be issued where the correction of 43465  
the objection would cause extensive changes in the building design 43466  
or construction. The giving of conditional approval is a 43467  
"conditional license" to proceed with construction up to the point 43468  
where the construction or materials objected to by the agency are 43469  
to be incorporated into the building. No construction shall 43470  
proceed beyond that point without the prior approval of the agency 43471  
or another agency that conducts an adjudication hearing relative 43472  
to the objection. The agency having jurisdiction shall specify its 43473  
objections to the plans or specifications, which is an 43474  
"adjudication order denying the issuance of a license" and may be 43475  
appealed pursuant to sections 119.07 to 119.13 of the Revised Code 43476  
and as modified by sections 3781.031 and 3781.19 of the Revised 43477  
Code. 43478

(H) A certified municipal, township, or county building 43479  
department having jurisdiction, or the superintendent, as 43480  
appropriate, shall review any plans, drawings, specifications, or 43481  
data described in this section that are submitted to it or to the 43482  
superintendent. 43483

(I) No owner or persons having control as an officer, or as a 43484  
member of a board or committee, or otherwise, of a building to 43485  
which section 3781.06 of the Revised Code is applicable, and no 43486  
architect, designer, engineer, builder, contractor, subcontractor, 43487  
or any officer or employee of a municipal, township, or county 43488  
building department shall violate this section. 43489

(J) Whoever violates this section shall be fined not more 43490  
than five hundred dollars. 43491

**Sec. 3791.05.** No owner, lessee, agent, factor, architect, or 43492  
contractor engaged in and having supervision or charge of the 43493

building, erection, or construction of a block, building, or 43494  
structure, shall neglect or refuse to place or have placed upon 43495  
the joists of each story thereof, as soon as joists are in 43496  
position, counter floors of such quality and strength as to render 43497  
perfectly safe the going to and from thereon of all mechanics, 43498  
laborers, and other persons engaged upon the work of construction 43499  
or supervision, or in placing materials for such construction. 43500

Whoever violates this section shall be fined not less than 43501  
twenty-five nor more than two hundred dollars. 43502

Each day that such person neglects or refuses to have such 43503  
counter floors so placed, after notice is given by a building 43504  
inspector, a chief inspector, or deputy inspector of the city 43505  
building inspection department in cities where such department is 43506  
organized, or by the superintendent of ~~labor~~ industrial compliance 43507  
of the state, in cities where such departments are not organized, 43508  
or from a person whose life or personal safety may be endangered 43509  
by such neglect or refusal, is a separate offense. 43510

**Sec. 3791.07.** (A) The board of building standards may 43511  
establish such reasonable inspection fee schedules as it 43512  
determines necessary or desirable relating to the inspection of 43513  
all plans and specifications submitted for approval to the 43514  
division of ~~labor~~ industrial compliance, and all industrialized 43515  
units inspected at the point of origin and at the construction 43516  
site of the building. The inspection fee schedule established 43517  
shall bear some reasonable relationship to the cost of 43518  
administering and enforcing the provisions of Chapters 3781. and 43519  
3791. of the Revised Code. 43520

(B) In addition to the fee assessed in division (A) of this 43521  
section, the board shall assess a fee of not more than five 43522  
dollars for each application for acceptance and approval of plans 43523  
and specifications and for making inspections pursuant to section 43524

3791.04 of the Revised Code. The board shall adopt rules, in 43525  
accordance with Chapter 119. of the Revised Code, specifying the 43526  
manner by which the superintendent of ~~labor~~ industrial compliance 43527  
shall collect and remit to the board the fees assessed under this 43528  
division and requiring that remittance of the fees be made at 43529  
least quarterly. 43530

(C) Any person who fails to pay an inspection fee required 43531  
for any inspection conducted by the department of commerce 43532  
pursuant to Chapters 3781. and 3791. of the Revised Code, except 43533  
for fees charged for the inspection of plans and specifications, 43534  
within forty-five days after the inspection is conducted, shall 43535  
pay a late payment fee equal to twenty-five per cent of the 43536  
inspection fee. 43537

(D) The board shall pay the fees assessed under this section 43538  
into the state treasury to the credit of the ~~labor~~ industrial 43539  
compliance operating fund created in section 121.084 of the 43540  
Revised Code. 43541

**Sec. 3791.11.** (A) As used in this section and sections 43542  
3791.12 and 3791.13 of the Revised Code: 43543

(1) "Service station" means any facility designed and 43544  
constructed primarily for use in the retail sale of gasoline, 43545  
other petroleum products, and related accessories; except that 43546  
"service station" does not include any such facility that has been 43547  
converted for use for another bona fide business purpose, on and 43548  
after the date of commencement of such other use. 43549

(2) "Abandoned service station" means any service station 43550  
that has not been used for the retail sale of gasoline, other 43551  
petroleum products, and related accessories for a continuous 43552  
period of six months, whenever failure to reasonably secure 43553  
station buildings from ready access by unauthorized persons and to 43554  
reasonably maintain the station's premises has resulted in 43555

conditions that endanger the public health, welfare, safety, or 43556  
morals; provided, that such conditions include, but are not 43557  
limited to, the presence of defective or deteriorated electrical 43558  
wiring, heating apparatus, and gas connections, or of unprotected 43559  
gasoline storage tanks, piping, and valves, or any combination of 43560  
the foregoing; and provided further that the casual and 43561  
intermittent use of a service station for the retail sale of any 43562  
item described in division (A)(1) of this section during such 43563  
six-month period shall not be held to prevent the station from 43564  
being determined an abandoned service station if it meets the 43565  
other qualifications of this division. 43566

(B) No person shall construct, renew operation of, or 43567  
continue operation of a service station unless, prior to the 43568  
commencement of construction or renewed operation and during the 43569  
period of continued operation, a valid bond is on file as provided 43570  
in division (C) ~~or (D)~~ of this section. The bond shall be obtained 43571  
by the owner of the property if ~~he~~ the owner is also the owner of 43572  
the service station. If the owner of the property is not the owner 43573  
of the service station, then the bond shall be obtained by the 43574  
lessee of the property; except that such lessee shall be other 43575  
than any person who leases and operates the service station 43576  
pursuant to a contract with a supplier of gasoline and petroleum 43577  
products. The bond shall identify and list the name and address of 43578  
the property owner and any lessee other than a person who leases 43579  
and operates the service station pursuant to a contract with a 43580  
supplier of gasoline and petroleum products. 43581

(C) The bond required by division (B) of this section shall 43582  
be filed annually with the executive authority of the municipal 43583  
corporation in which the service station is, or is to be, located, 43584  
or with the clerk of the board of county commissioners if the 43585  
service station is not, or is not to be, located within a 43586  
municipal corporation. The bond shall either be a cash bond or 43587

have sufficient sureties approved by the executive authority or 43588  
clerk with whom it is filed. The bond shall be for a term of one 43589  
year and shall be renewed annually. The bond shall be in the 43590  
amount of three thousand dollars for each service station to 43591  
provide for the repair or removal of the service station and its 43592  
appurtenances and restoration of the property. The bond shall be 43593  
conditioned upon the repair or removal of the service station and 43594  
restoration of the property if the service station is determined 43595  
to be an abandoned service station as provided in section 3791.12 43596  
of the Revised Code. If the service station is determined to be an 43597  
abandoned service station, and division (D) or (F) of section 43598  
3791.12 of the Revised Code applies, the bond shall be forfeited 43599  
and the proceeds applied to the costs of repair or removal and 43600  
restoration as provided in section 3791.13 of the Revised Code. If 43601  
the amount of the bond exceeds the costs of repair or removal and 43602  
restoration, the excess shall be returned to the depositor. 43603

~~(D) Whenever a property owner or lessee, other than a person 43604  
leasing and operating a service station pursuant to a contract 43605  
with a supplier of gasoline and other petroleum products, owns, 43606  
leases, or is constructing two or more service stations in this 43607  
state, such owner or lessee may deposit with the treasurer of 43608  
state, in lieu of the bond required by division (C) of this 43609  
section, money or a surety bond approved by the treasurer in the 43610  
amount of one hundred fifty thousand dollars, or bonds of the 43611  
United States, this state, or of a political subdivision of this 43612  
state, having a market value, as determined by the treasurer, of 43613  
one hundred fifty thousand dollars. The bond or deposit shall 43614  
cover all service stations owned in the state, being constructed, 43615  
leased, or operated by the depositor and shall be conditioned upon 43616  
the repair or removal of any such station and its appurtenances 43617  
and restoration of the property, if the station is determined to 43618  
be an abandoned service station as provided in section 3791.12 of 43619  
the Revised Code. If any such service station is determined to be 43620~~

~~an abandoned service station, and division (D) or (F) of section 43621  
3791.12 of the Revised Code applies, the portion of the bond or 43622  
deposit required to pay the costs of repair or removal and 43623  
restoration shall be forfeited and paid to the executive authority 43624  
of the municipal corporation or to the board of county 43625  
commissioners of the county, upon request therefor. If the surety 43626  
refuses to pay the costs of repair or removal and restoration to 43627  
the treasurer, the treasurer shall forthwith file an action on the 43628  
bond in the amount certified by the executive authority or board 43629  
as the costs of repair or removal and restoration, and shall pay 43630  
to the executive authority or board the proceeds of any judgment. 43631  
A bond or deposit shall remain valid as long as it is sufficient 43632  
to cover one hundred thousand dollars of liability. If the bond or 43633  
deposit is reduced to a lesser amount, it shall be invalid unless 43634  
sufficient additional bond or deposit is provided to restore the 43635  
amount of liability covered to one hundred fifty thousand dollars. 43636~~

**Sec. 3791.12.** (A) The executive authority of each municipal 43637  
corporation and the board of county commissioners of each county 43638  
shall designate a suitable person to make inspections, within 43639  
their respective territorial jurisdictions, of any service 43640  
stations that are, or appear to be, no longer in use for the 43641  
purposes described in division (A)(1) of section 3791.11 of the 43642  
Revised Code, or for any other bona fide business purpose. 43643  
Inspections of service stations under this section shall be made 43644  
at the order of the executive authority or board, or upon the 43645  
complaint of any person claiming to be adversely affected by the 43646  
condition of a service station. Any inspector designated under 43647  
this section shall have the right to enter upon and inspect any 43648  
service station that is, or appears to be, no longer in use as 43649  
described in this section. No inspector, while in the lawful 43650  
pursuit of his official duties for such purpose, shall be subject 43651  
to arrest for trespass while so engaged or for such cause 43652

thereafter. 43653

(B) Whenever an inspector, upon inspecting a service station 43654  
as provided in this section, has reasonable cause to believe that 43655  
it qualifies as an abandoned service station, ~~he~~ the inspector 43656  
shall prepare a written report of the condition of the station's 43657  
buildings and premises. The report shall be filed immediately with 43658  
the executive authority or board. Upon receipt of the report, the 43659  
executive authority or board shall fix a place and time, not less 43660  
than thirty days nor more than sixty days after receipt of the 43661  
report, for a hearing to determine whether the service station is 43662  
an abandoned service station. The executive authority or board 43663  
shall send written notice of the place and date of the hearing, 43664  
together with a copy of the inspector's report and information 43665  
that the service station may be ordered repaired or removed if 43666  
determined to be abandoned, to all persons listed in the bond 43667  
filed under division (C) ~~or (D)~~ of section 3791.11 of the Revised 43668  
Code, and to all persons listed in the records of the county 43669  
recorder or county clerk of courts as holding a lien on the 43670  
affected property. Such notice shall be sent by certified mail to 43671  
the address shown on such records. 43672

(C) In hearing the matter and deciding the issue, the 43673  
executive authority or board shall consider the testimony of any 43674  
persons appearing pursuant to the notice, or their authorized 43675  
representatives, the testimony of any witnesses appearing on 43676  
behalf of such persons, the inspector's report or testimony, or 43677  
both, and any other evidence pertinent to the matter. If the 43678  
executive authority or board thereupon determines that the service 43679  
station is an abandoned service station in such condition as to 43680  
constitute a danger to the public health, welfare, safety, or 43681  
morals, it shall order the satisfactory repair, or removal, of the 43682  
service station and its appurtenances, and restoration of the 43683  
property, within such period of time, not less than thirty days, 43684

as the executive authority or board thereupon determines 43685  
reasonable. Notice of the findings and order shall be sent to all 43686  
persons required to be notified by division (B) of this section in 43687  
the same manner as provided in that division. 43688

(D) If an abandoned service station is not satisfactorily 43689  
repaired or removed within the period of time provided in an order 43690  
made under division (C) of this section, the municipal corporation 43691  
or county may enter the land and complete the repair, if repair 43692  
was ordered, or remove the service station and its appurtenances, 43693  
if removal was ordered, and restore the property. 43694

(E) Any person aggrieved by an order of an executive 43695  
authority or board made under division (C) of this section, may 43696  
appeal as provided in Chapter 2506. of the Revised Code within 43697  
thirty days of the mailing of notice of the order. 43698

(F) In the event that no persons notified as provided in 43699  
division (B) of this section, or their authorized representatives, 43700  
appear at the hearing, respond to an order of the executive 43701  
authority or board, or appeal within thirty days of the mailing of 43702  
notice of the order as provided in division (E) of this section, 43703  
the municipal corporation or county may proceed as provided in 43704  
division (D) of this section. 43705

**Sec. 3793.04.** The department of alcohol and drug addiction 43706  
services shall develop, administer, and revise as necessary a 43707  
comprehensive statewide alcohol and drug addiction services plan 43708  
for the implementation of this chapter. The plan shall emphasize 43709  
abstinence from the use of alcohol and drugs of abuse as the 43710  
primary goal of alcohol and drug addiction services. The council 43711  
on alcohol ~~and~~, drug, and gambling addiction services shall advise 43712  
the department in the development and implementation of the plan. 43713

The plan shall provide for the allocation and distribution of 43714  
funds appropriated to the department by the general assembly for 43715

services furnished by alcohol and drug addiction programs under 43716  
contract with boards of alcohol, drug addiction, and mental health 43717  
services. The department shall exclude from the allocation and 43718  
distribution any funds that are transferred to the department of 43719  
job and family services to pay the nonfederal share of alcohol and 43720  
drug addiction services covered by the medicaid program. 43721

The plan shall specify the methodology that the department 43722  
will use for determining how the funds will be allocated and 43723  
distributed. A portion of the funds shall be allocated on the 43724  
basis of the ratio of the population of each alcohol, drug 43725  
addiction, and mental health service district to the total 43726  
population of the state as determined from the most recent federal 43727  
census or the most recent official estimate made by the United 43728  
States census bureau. 43729

The plan shall ensure that alcohol and drug addiction 43730  
services of a high quality are accessible to, and responsive to 43731  
the needs of, all persons, especially those who are members of 43732  
underserved groups, including, but not limited to, African 43733  
Americans, Hispanics, native Americans, Asians, juvenile and adult 43734  
offenders, women, veterans, and persons with special services 43735  
needs due to age or disability. The plan shall include a program 43736  
to promote and protect the rights of those who receive services. 43737

To aid in formulating the plan and in evaluating the 43738  
effectiveness and results of alcohol and drug addiction services, 43739  
the department, in consultation with the department of mental 43740  
health, shall establish and maintain an information system or 43741  
systems. The department of alcohol and drug addiction services 43742  
shall specify the information that must be provided by boards of 43743  
alcohol, drug addiction, and mental health services and by alcohol 43744  
and drug addiction programs for inclusion in the system. The 43745  
department shall not collect any personal information from the 43746  
boards except as required or permitted by state or federal law for 43747

purposes related to payment, health care operations, program and 43748  
service evaluation, reporting activities, research, system 43749  
administration, and oversight. 43750

In consultation with boards, programs, and persons receiving 43751  
services, the department shall establish guidelines for the use of 43752  
funds allocated and distributed under this section and for the 43753  
boards' development of plans for services required by sections 43754  
340.033 and 3793.05 of the Revised Code. 43755

In any fiscal year, the department shall spend, or allocate 43756  
to boards, for methadone maintenance programs or any similar 43757  
programs not more than eight per cent of the total amount 43758  
appropriated to the department for the fiscal year. 43759

Sec. 3793.041. The department of alcohol and drug addiction 43760  
services shall develop, administer, and revise as necessary a 43761  
comprehensive statewide gambling addiction services plan. The 43762  
council on alcohol, drug, and gambling addiction services shall 43763  
advise the department in the development and implementation of the 43764  
plan. 43765

The plan shall provide for allocation and distribution of 43766  
funds from the problem casino gambling and addictions fund 43767  
described in Section 6(C)(3)(g) of Article XV, Ohio Constitution, 43768  
and any funding to be distributed by the department for problem 43769  
gambling. 43770

The plan shall specify the methodology that the department 43771  
will use for determining how the funds will be allocated and 43772  
distributed. A portion of the funds shall be allocated on the 43773  
basis of the ratio of the population of each alcohol, drug 43774  
addiction, and mental health service district to the total 43775  
population of the state as determined from the most recent federal 43776  
census or the most recent official estimate made by the United 43777  
States census bureau. 43778

The plan shall ensure that gambling addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, veterans, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of gambling addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by gambling addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of funds allocated and distributed under this section.

**Sec. 3793.09.** (A) There is hereby created the council on alcohol ~~and~~, drug, and gambling addiction services which shall consist of the public officials specified in division (B) of this section, or their designees, and ~~thirteen~~ fourteen members appointed by the governor with the advice and consent of the senate. The members appointed by the governor shall be representatives of the following: boards of alcohol, drug

addiction, and mental health services; the criminal and juvenile 43810  
justice systems; ~~and~~ alcohol and drug addiction programs; and 43811  
gambling addiction programs. At least four of the appointed 43812  
members shall be persons who have received or are receiving 43813  
alcohol or drug addiction services or are parents or other 43814  
relatives of such persons; of these at least two shall be women 43815  
and at least one shall be a member of a minority ~~group~~. 43816

~~The governor shall make initial appointments to the council 43817  
not later than thirty days after October 10, 1989. Of the initial 43818  
appointments, six shall be for terms ending July 31, 1991, and 43819  
seven shall be for terms ending July 31, 1992. Thereafter, terms 43820  
group. At least one appointed member shall be an individual who 43821  
has received or is receiving gambling addiction services.~~ 43822

Terms of office shall be two years, with each term ending on 43823  
the same day of the same month as the term it succeeds. Each 43824  
member shall hold office from the date of the member's appointment 43825  
until the end of the term for which the member was appointed. 43826  
Members may be reappointed. Vacancies shall be filled in the same 43827  
manner as original appointments. Any member appointed to fill a 43828  
vacancy occurring prior to the expiration of the term for which 43829  
the member's predecessor was appointed shall hold office as a 43830  
member for the remainder of the term. A member shall continue in 43831  
office subsequent to the expiration of the member's term until the 43832  
member's successor takes office or until a period of sixty days 43833  
has elapsed, whichever occurs first. 43834

(B) The directors of health, public safety, mental health, 43835  
rehabilitation and correction, and youth services; the 43836  
superintendents of public instruction and liquor control; the 43837  
attorney general; the adjutant general; ~~and~~ the executive director 43838  
of the division of criminal justice services in the department of 43839  
public safety; the executive director of the casino control 43840  
commission; the executive director of the lottery commission; and 43841

the executive director of the state racing commission shall be 43842  
voting members of the council, except that any of these officials 43843  
may designate an individual to serve in the official's place as a 43844  
voting member of the council. The director of alcohol and drug 43845  
addiction services shall serve as a nonvoting member of the 43846  
council. 43847

(C) The governor shall annually appoint a chairperson from 43848  
among the members of the council. The council shall meet quarterly 43849  
and at other times the chairperson considers necessary. In 43850  
addition to other duties specified in this chapter, the council 43851  
shall review the development of the comprehensive statewide plan 43852  
for alcohol and drug addiction services, the comprehensive 43853  
statewide plan for gambling addiction services, revisions of ~~the~~ 43854  
~~plan~~ those plans, and other actions taken to implement the 43855  
purposes of this chapter by the department of alcohol and drug 43856  
addiction services and shall act as an advisory council to the 43857  
director of alcohol and drug addiction services. 43858

(D) Members of the council shall serve without compensation, 43859  
but shall be paid actual and necessary expenses incurred in the 43860  
performance of their duties. 43861

**Sec. 3798.01. As used in this chapter:** 43862

(A) "Approved health information exchange" means a health 43863  
information exchange that has been approved or reapproved by the 43864  
director of job and family services pursuant to the approval or 43865  
reapproval process, as applicable, the director establishes in 43866  
rules adopted under division (A) of section 3798.15 of the Revised 43867  
Code or that has been certified by the office of the national 43868  
coordinator for health information technology in the United States 43869  
department of health and human services. 43870

(B) "Covered entity," "disclosure," "health care provider," 43871  
"health information," "individually identifiable health 43872

information," "protected health information," and "use" have the 43873  
same meanings as in 45 C.F.R. 160.103. 43874

(C) "Designated record set" has the same meaning as in 45 43875  
C.F.R. 164.501. 43876

(D) "Direct exchange" means the activity of electronic 43877  
transmission of health information through a direct connection 43878  
between the electronic record systems of health care providers 43879  
without the use of a health information exchange. 43880

(E) "Health care component" and "hybrid entity" have the same 43881  
meanings as in 45 C.F.R. 164.103. 43882

(F) "Health information exchange" means any person or 43883  
governmental entity that provides in this state a technical 43884  
infrastructure to connect computer systems or other electronic 43885  
devices used by covered entities to facilitate the secure 43886  
transmission of health information. "Health information exchange" 43887  
excludes health care providers engaged in direct exchange, 43888  
including direct exchange through the use of a health information 43889  
service provider. 43890

(G) "HIPAA privacy rule" means the standards for privacy of 43891  
individually identifiable health information in 45 C.F.R. part 160 43892  
and in 45 C.F.R. part 164, subparts A and E. 43893

(H) "Interoperability" means the capacity of two or more 43894  
information systems to exchange information in an accurate, 43895  
effective, secure, and consistent manner. 43896

(I) "Minor" means an unemancipated person under eighteen 43897  
years of age or a mentally or physically disabled person under 43898  
twenty-one years of age who meets criteria specified in rules 43899  
adopted by the director of job and family services under section 43900  
3798.13 of the Revised Code. 43901

(J) "More stringent" has the same meaning as in 45 C.F.R. 43902

|   |       |
|---|-------|
| <u>160.202.</u>   | 43903 |
| <u>(K) "Office of health transformation" means the office of</u>          | 43904 |
| <u>health transformation created by executive order 2011-02K or a</u>     | 43905 |
| <u>successor governmental entity responsible for health system</u>        | 43906 |
| <u>oversight in this state.</u>   | 43907 |
| <u>(L) "Personal representative" means a person who has</u>               | 43908 |
| <u>authority under applicable law to make decisions related to health</u> | 43909 |
| <u>care on behalf of an adult or emancipated minor, or the parent,</u>    | 43910 |
| <u>legal guardian, or other person acting in loco parentis who is</u>     | 43911 |
| <u>authorized under law to make health care decisions on behalf of an</u> | 43912 |
| <u>unemancipated minor. "Personal representative" does not include</u>    | 43913 |
| <u>the parent or legal guardian of, or another person acting in loco</u>  | 43914 |
| <u>parentis to, a minor who consents to the minor's own receipt of</u>    | 43915 |
| <u>health care or a minor who makes medical decisions on the minor's</u>  | 43916 |
| <u>own behalf pursuant to law, court approval, or because the minor's</u> | 43917 |
| <u>parent, legal guardian, or other person acting in loco parentis</u>    | 43918 |
| <u>has assented to an agreement of confidentiality between the</u>        | 43919 |
| <u>provider and the minor.</u>  | 43920 |
| <u>(M) "Political subdivision" means a municipal corporation,</u>         | 43921 |
| <u>township, county, school district, or other body corporate and</u>     | 43922 |
| <u>politic responsible for governmental activities in a geographic</u>    | 43923 |
| <u>area smaller than that of the state.</u>                               | 43924 |
| <u>(N) "State agency" means any one or more of the following:</u>         | 43925 |
| <u>(1) The department of aging;</u>                                       | 43926 |
| <u>(2) The department of alcohol and drug addiction services;</u>         | 43927 |
| <u>(3) The department of developmental disabilities;</u>                  | 43928 |
| <u>(4) The department of education;</u>                                   | 43929 |
| <u>(5) The department of health;</u>                                      | 43930 |
| <u>(6) The department of insurance;</u>                                   | 43931 |
| <u>(7) The department of job and family services;</u>                     | 43932 |

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| <u>(8) The department of mental health;</u>                               | 43933 |
| <u>(9) The department of rehabilitation and correction;</u>               | 43934 |
| <u>(10) The department of youth services;</u>                             | 43935 |
| <u>(11) The bureau of workers' compensation;</u>                          | 43936 |
| <u>(12) The rehabilitation services commission;</u>                       | 43937 |
| <u>(13) The office of the attorney general;</u>                           | 43938 |
| <u>(14) A health care licensing board created under Title XLVII</u>       | 43939 |
| <u>of the Revised Code that possesses individually identifiable</u>       | 43940 |
| <u>health information.</u>  | 43941 |
| <br>  |       |
| <u>Sec. 3798.02. It is the intent of the general assembly in</u>          | 43942 |
| <u>enacting this chapter to make the laws of this state governing the</u> | 43943 |
| <u>use and disclosure of protected health information by covered</u>      | 43944 |
| <u>entities consistent with, but generally not more stringent than,</u>   | 43945 |
| <u>the HIPAA privacy rule for the purpose of eliminating barriers to</u>  | 43946 |
| <u>the adoption and use of electronic health records and health</u>       | 43947 |
| <u>information exchanges. Therefore, it is also the general</u>           | 43948 |
| <u>assembly's intent in enacting this chapter to supersede any</u>        | 43949 |
| <u>judicial or administrative ruling issued in this state that is</u>     | 43950 |
| <u>inconsistent with the provisions of this chapter.</u>                  | 43951 |
| <br>  |       |
| <u>Sec. 3798.03. (A) Subject to division (B) of this section, a</u>       | 43952 |
| <u>covered entity shall do both of the following:</u>                     | 43953 |
| <br>  |       |
| <u>(1) If an individual's protected health information is</u>             | 43954 |
| <u>maintained by the covered entity in a designated record set,</u>       | 43955 |
| <u>provide the individual or the individual's personal representative</u> | 43956 |
| <u>with access to that information in a manner consistent with 45</u>     | 43957 |
| <u>C.F.R. 164.524;</u>  | 43958 |
| <br>  |       |
| <u>(2) Implement and maintain appropriate administrative,</u>             | 43959 |
| <u>technical, and physical safeguards to protect the privacy of</u>       | 43960 |
| <u>protected health information in a manner consistent with 45 C.F.R.</u> | 43961 |

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| <u>164.530(c).</u>  | 43962  |
| <u>(B) If a covered entity is a hybrid entity, this section applies only to the health care component of the covered entity.</u>  | 43963<br>43964   |
| <u>Sec. 3798.04. A covered entity shall not do either of the following:</u>   | 43965<br>43966   |
| <u>(A) Use or disclose protected health information without an authorization that is valid under 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2, except when the use or disclosure is required or permitted without such authorization by Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations and, if applicable, 42 C.F.R. part 2;</u>   | 43967<br>43968<br>43969<br>43970<br>43971<br>43972                   |
| <u>(B) Use or disclose protected health information in a manner that is not consistent with 45 C.F.R. 164.502.</u>  | 43973<br>43974   |
| <u>Sec. 3798.06. Except in the circumstances described in division (A) of section 3798.04 of the Revised Code when a covered entity is permitted to disclose protected health information without an authorization that is valid under 45 C.F.R. 164.508, a covered entity shall not disclose protected health information to a health information exchange without an authorization described in division (A) of section 3798.04 of the Revised Code unless all of the following are true:</u> | 43975<br>43976<br>43977<br>43978<br>43979<br>43980<br>43981<br>43982 |
| <u>(A) The disclosure is to an approved health information exchange.</u>  | 43983<br>43984   |
| <u>(B) The covered entity is a party to a valid participation agreement with the approved health information exchange that meets the requirements of rules adopted under section 3798.16 of the Revised Code.</u>   | 43985<br>43986<br>43987<br>43988                                     |
| <u>(C) The disclosure is consistent with all procedures established by the approved health information exchange.</u>  | 43989<br>43990   |

(D) Prior to the disclosure, the covered entity furnishes to the individual or individual's personal representative a written notice that complies with rules adopted under division (A)(3) of section 3798.16 of the Revised Code. 43991  
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**Sec. 3798.07.** (A) In addition to being subject to the general prohibition in section 3798.06 of the Revised Code on disclosure of protected health information to a health information exchange without a valid authorization, a covered entity shall also be subject to the following conditions when it discloses protected health information to a health information exchange: 43995  
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(1) The covered entity shall restrict disclosure consistent with all applicable federal laws governing the disclosure; 44001  
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(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. 44003  
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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. 44011  
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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. 44015  
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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: 44021  
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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; 44025  
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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; 44029  
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(3) The confidential status of quality assurance program activities and quality assurance records as described in section 5122.32 of the Revised Code; 44032  
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(4) The testimonial privilege established by division (B) of section 2317.02 of the Revised Code; 44035  
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(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: 44037  
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(a) A section of the Revised Code that is not in this chapter; 44047  
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(b) A rule as defined in section 119.01 of the Revised Code; 44049

(c) An internal management rule as defined in section 111.15 44050

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| <u>of the Revised Code;</u>   | 44051 |
| <u>(d) Guidance issued by an agency;</u>                                  | 44052 |
| <u>(e) Orders or regulations of a board of health of a city</u>           | 44053 |
| <u>health district made under section 3709.20 of the Revised Code;</u>    | 44054 |
| <u>(f) Orders or regulations of a board of health of a general</u>        | 44055 |
| <u>health district made under section 3709.21 of the Revised Code;</u>    | 44056 |
| <u>(g) An ordinance or resolution adopted by a political</u>              | 44057 |
| <u>subdivision;</u>   | 44058 |
| <u>(h) A professional code of ethics;</u>                                 | 44059 |
| <u>(i) When a minor is authorized to consent to the minor's own</u>       | 44060 |
| <u>receipt of health care or make medical decisions on the minor's</u>    | 44061 |
| <u>own behalf, including the circumstances described in sections</u>      | 44062 |
| <u>2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of</u>    | 44063 |
| <u>the Revised Code.</u>  | 44064 |
| <br>  |       |
| <u><b>Sec. 3798.08.</b> (A) A covered entity that uses or discloses</u>   | 44065 |
| <u>protected health information in a manner that complies with</u>        | 44066 |
| <u>sections 3798.03 and 3798.07 of the Revised Code and is not in</u>     | 44067 |
| <u>violation of section 3798.04 or 3798.06 of the Revised Code is not</u> | 44068 |
| <u>liable in a civil action and is not subject to criminal</u>            | 44069 |
| <u>prosecution or professional disciplinary action arising out of or</u>  | 44070 |
| <u>relating to the access or disclosure.</u>                              | 44071 |
| <br>  |       |
| <u>(B) An approved health information exchange is not liable in</u>       | 44072 |
| <u>a civil action and not subject to criminal prosecution arising out</u> | 44073 |
| <u>of or relating to a covered entity's disclosure of protected</u>       | 44074 |
| <u>health information to the approved health information exchange, or</u> | 44075 |
| <u>use of protected health information accessed from the approved</u>     | 44076 |
| <u>health information exchange, if the disclosure or use complies</u>     | 44077 |
| <u>with sections 3798.03 and 3798.07 of the Revised Code and is not</u>   | 44078 |
| <u>in violation of section 3798.04 or 3798.06 of the Revised Code.</u>    | 44079 |

Sec. 3798.10. (A) Not later than six months after the 44080  
effective date of this section, the director of job and family 44081  
services, in consultation with the office of health 44082  
transformation, shall prescribe by rules adopted in accordance 44083  
with Chapter 119. of the Revised Code a standard authorization 44084  
form for the use and disclosure of protected health information by 44085  
covered entities in this state. The form shall meet all 44086  
requirements specified in 45 C.F.R. 164.508 and, where applicable, 44087  
42 C.F.R. part 2. 44088

(B) If a form the director prescribes under division (A) of 44089  
this section is properly executed by an individual or the 44090  
individual's personal representative, it shall be accepted by any 44091  
person or governmental entity in this state as valid authorization 44092  
for the use or disclosure of the individual's protected health 44093  
information to the persons or governmental entities specified in 44094  
the form. 44095

(C) This section does not preclude a person or governmental 44096  
entity from accepting as valid authorization for the use or 44097  
disclosure of protected health information a form other than the 44098  
form prescribed under division (A) of this section if the other 44099  
form meets all requirements specified in 45 C.F.R. 164.508 and, if 44100  
applicable, 42 C.F.R. part 2. 44101

Sec. 3798.12. As used in this section, "agency" has the same 44102  
meaning as in section 111.15 of the Revised Code. 44103

(A) Except as provided in division (B) of this section, any 44104  
of the following pertaining to the confidentiality, privacy, 44105  
security, or privileged status of protected health information 44106  
transacted, maintained in, or accessed through a health 44107  
information exchange is unenforceable if it conflicts with this 44108  
chapter: 44109

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| <u>(1) A section of the Revised Code that is not in this</u>              | 44110 |
| <u>chapter;</u>   | 44111 |
| <u>(2) A rule as defined in section 119.01 of the Revised Code;</u>       | 44112 |
| <u>(3) An internal management rule as defined in section 111.15</u>       | 44113 |
| <u>of the Revised Code;</u>   | 44114 |
| <u>(4) Guidance issued by an agency;</u>                                  | 44115 |
| <u>(5) Orders or regulations of a board of health of a city</u>           | 44116 |
| <u>health district made under section 3709.20 of the Revised Code;</u>    | 44117 |
| <u>(6) Orders or regulations of a board of health of a general</u>        | 44118 |
| <u>health district made under section 3709.21 of the Revised Code;</u>    | 44119 |
| <u>(7) An ordinance or resolution adopted by a political</u>              | 44120 |
| <u>subdivision;</u>   | 44121 |
| <u>(8) A professional code of ethics.</u>                                 | 44122 |
| <u>(B) Division (A) of this section does not render</u>                   | 44123 |
| <u>unenforceable or restrict in any manner any of the following:</u>      | 44124 |
| <u>(1) A provision of the Revised Code that on the effective</u>          | 44125 |
| <u>date of this section requires a person or governmental entity to</u>   | 44126 |
| <u>disclose protected health information to a state agency, political</u> | 44127 |
| <u>subdivision, or other governmental entity;</u>                         | 44128 |
| <u>(2) The confidential status of proceedings and records within</u>      | 44129 |
| <u>the scope of a peer review committee of a health care entity as</u>    | 44130 |
| <u>described in section 2305.252 of the Revised Code;</u>                 | 44131 |
| <u>(3) The confidential status of quality assurance program</u>           | 44132 |
| <u>activities and quality assurance records as described in section</u>   | 44133 |
| <u>5122.32 of the Revised Code;</u>                                       | 44134 |
| <u>(4) The testimonial privilege established by division (B) of</u>       | 44135 |
| <u>section 2317.02 of the Revised Code;</u>                               | 44136 |
| <u>(5) An item described in divisions (A)(1) to (8) of this</u>           | 44137 |
| <u>section that governs any of the following:</u>                         | 44138 |

(a) The confidentiality, privacy, security, or privileged status of protected health information in the possession or custody of an agency; 44139  
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(b) The process for obtaining from a patient consent to the provision of health care or consent for participation in medical or other scientific research; 44142  
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(c) 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; 44145  
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(d) The process for determining whether a minor has been emancipated. 44149  
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(6) 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 the Revised Code. 44151  
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Sec. 3798.13. The director of job and family services shall adopt rules for purposes of specifying the criteria a person who is mentally or physically disabled and who is under twenty-one years of age must meet to be considered a minor for purposes of sections 3798.07 and 3798.12 of the Revised Code. 44156  
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Sec. 3798.14. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing standards the director must use to approve health information exchanges operating in this state. The rules shall not be adopted until the earlier of sixty days following the adoption of a federal certification process for health information exchanges by the office of the national coordinator for health 44161  
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information technology in the United States department of health 44169  
and human services or January 1, 2013. Subject to division (B) of 44170  
this section, the rules may include standards and procedures to be 44171  
followed by a health information exchange regarding the following: 44172

(1) Access to and use and disclosure of protected health 44173  
information maintained by or on an approved health information 44174  
exchange; 44175

(2) Demonstration of adequate financial resources to sustain 44176  
continued operations in compliance with the rules adopted under 44177  
this section; 44178

(3) Participation in outreach activities for individuals and 44179  
covered entities; 44180

(4) Conduct of operations in a transparent manner to promote 44181  
consumer confidence; 44182

(5) Implementation of security breach notification 44183  
procedures. 44184

(B) The rules the director adopts pursuant to division (A) of 44185  
this section shall be consistent with certification standards for 44186  
health information exchanges established in federal statutes and 44187  
regulations, including nationally recognized standards for 44188  
interoperability. 44189

**Sec. 3798.15.** (A) The director of job and family services, in 44190  
consultation with the office of health transformation, shall adopt 44191  
rules in accordance with Chapter 119. of the Revised Code for the 44192  
purpose of establishing processes for all of the following: 44193

(1) A health information exchange to obtain approval to 44194  
operate as an approved health information exchange in this state 44195  
and, at times specified by the director, obtain reapproval of such 44196  
and, at times specified by the director, obtain reapproval of such 44197

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| <u>status;</u>   | 44198   |
| <u>(2) The director to investigate and resolve concerns and complaints submitted to the director regarding an approved health information exchange;</u>  | 44199<br>44200<br>44201                                     |
| <u>(3) A health information exchange to apply for reconsideration of a decision the director makes under a process established under division (A)(1) or (2) of this section;</u>   | 44202<br>44203<br>44204                                     |
| <u>(4) Covered entities and approved health information exchanges to enter into participation agreements and enforce the terms of such agreements.</u>   | 44205<br>44206<br>44207                                     |
| <u>(B) Any decision the director makes in relation to a request for reconsideration made in accordance with rules adopted under division (A)(3) of this section is not subject to appeal under Chapter 119. of the Revised Code.</u>   | 44208<br>44209<br>44210<br>44211                            |
| <b><u>Sec. 3798.16. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the 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:</u></b> | 44212<br>44213<br>44214<br>44215<br>44216<br>44217<br>44218 |
| <u>(1) Procedures for a covered entity to disclose an individual's protected health information to an approved health information exchange;</u>  | 44219<br>44220<br>44221                                     |
| <u>(2) Procedures for a covered entity to access an individual's protected health information from an approved health information exchange;</u>  | 44222<br>44223<br>44224                                     |
| <u>(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</u>   | 44225<br>44226<br>44227                                     |

disclosure of the individual's protected health information to an 44228  
approved health information exchange; 44229

(4) Documentation the covered entity must use to verify that 44230  
a notice described in division (A)(3) of this section has been 44231  
provided by the covered entity to an individual or the 44232  
individual's personal representative prior to the disclosure of 44233  
the individual's protected health information to an approved 44234  
health information exchange; 44235

(5) Procedures, which must take into consideration the 44236  
technical capabilities of software available to health information 44237  
exchanges, for an individual or the individual's personal 44238  
representative to submit to the covered entity a written request 44239  
to place restrictions on the covered entity's disclosure of 44240  
protected health information to the approved health information 44241  
exchange; 44242

(6) The standards a covered entity must use to determine 44243  
whether, and to what extent, to comply with a written request 44244  
described in division (A)(5) of this section; 44245

(7) The purposes for which a covered entity may access and 44246  
use protected health information from the approved health 44247  
information exchange. 44248

(B) With respect to the written notice described in division 44249  
(A)(3) of this section, the rules may specify that the notice can 44250  
be incorporated into the covered entity's notice of privacy 44251  
practices required by 45 C.F.R. 164.520 and shall specify that the 44252  
notice include the following statements: 44253

(1) The individual's protected health information will be 44254  
disclosed to the approved health information exchange to 44255  
facilitate the provision of health care to the individual. 44256

(2) The approved health information exchange maintains 44257  
appropriate safeguards to protect the privacy and security of 44258

protected health information. 44259

(3) Only authorized individuals may access and use protected health information from the approved health information exchange. 44260  
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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: 44262  
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(a) Not disclose any of the individual's protected health information to the approved health information exchange; 44265  
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(b) Not disclose specific categories of the individual's protected health information to the approved health information exchange. 44267  
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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 provider not having access to information that is necessary for the provider to render appropriate care to the individual. 44270  
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(6) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(a) of this section must be honored by the covered entity. 44275  
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(7) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(b) of this section must be honored if the restriction is consistent with rules adopted under this chapter. 44278  
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**Sec. 3905.36.** (A) Every insured association, company, corporation, or other person that enters, directly or indirectly, into any independent procurement or direct placement agreement with any insurance company, association, individual, firm, underwriter, or Lloyd's, not authorized to do business in this state, whereby the insured shall procure, continue, or renew contracts of insurance with such unauthorized insurance company, 44282  
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association, individual, firm, underwriter, or Lloyd's, for which 44289  
insurance there is a gross premium, shall file the details of the 44290  
transaction annually, on or before the thirty-first day of March, 44291  
and shall at the same time pay to the treasurer of state, or to 44292  
the superintendent of insurance upon the mutual agreement of the 44293  
superintendent and the treasurer, a tax of five per cent of such 44294  
gross premium, after a deduction for return premium, if any, as 44295  
calculated in the prescribed format or in compliance with any 44296  
requirements of the compact entered into by the superintendent 44297  
pursuant to division (D) of section 3905.33 of the Revised Code. 44298  
An insurer may submit the required details of the transaction and 44299  
remit the tax payment on behalf of an insured. 44300

All taxes collected under this section shall be paid into the 44301  
general revenue fund. If the tax is not paid when due, the tax 44302  
shall be increased by a penalty of twenty-five per cent. An 44303  
interest charge computed as set forth in section 5725.221 of the 44304  
Revised Code shall be made on the entire sum of the tax plus 44305  
penalty, which interest shall be computed from the date the tax is 44306  
due until it is paid. For purposes of this section, payment is 44307  
considered made when it is received by the treasurer or the 44308  
superintendent, irrespective of any United States postal service 44309  
marking or other stamp or mark indicating the date on which the 44310  
payment may have been mailed. 44311

The superintendent of insurance, in the superintendent's sole 44312  
discretion, may waive the twenty-five per cent penalty and 44313  
interest charge thereon for a first-time, inadvertent nonpayment 44314  
of the tax when due if the nonpayment is reported immediately upon 44315  
discovery and the outstanding tax is thereafter immediately paid 44316  
to the superintendent. 44317

(B) Each person licensed under section 3905.30 of the Revised 44318  
Code shall pay to the treasurer of state, or to the superintendent 44319  
of insurance upon the mutual agreement of the superintendent and 44320

the treasurer, on or before the thirty-first day of March of each 44321  
year, five per cent of the balance of the gross premiums charged 44322  
for insurance placed or procured under the license after a 44323  
deduction for return premiums in the prescribed format or in 44324  
compliance with any requirements of the compact entered into by 44325  
the superintendent pursuant to division (D) of section 3905.33 of 44326  
the Revised Code. The tax shall be collected from the insured by 44327  
the surplus lines broker who placed or procured the policy of 44328  
insurance at the time the policy is delivered to the insured. No 44329  
license issued under section 3905.30 of the Revised Code shall be 44330  
renewed until payment is made. If the tax is not paid when due, 44331  
the tax shall be increased by a penalty of twenty-five per cent. 44332  
An interest charge computed as set forth in section 5725.221 of 44333  
the Revised Code shall be made on the entire sum of the tax plus 44334  
penalty, which interest shall be computed from the date the tax is 44335  
due until it is paid. For purposes of this section, payment is 44336  
considered made when it is received by the treasurer or the 44337  
superintendent, irrespective of any United States postal service 44338  
marking or other stamp or mark indicating the date on which the 44339  
payment may have been mailed. 44340

The superintendent, in the superintendent's sole discretion, 44341  
may waive the twenty-five per cent penalty and interest charge 44342  
thereon for a first-time, inadvertent nonpayment of the tax when 44343  
due if the nonpayment is reported immediately upon discovery and 44344  
the outstanding tax is thereafter immediately paid to the 44345  
superintendent. 44346

(C) This section does not apply to: 44347

(1) An insured otherwise exempt from the payment of premium 44348  
or franchise taxes under state or federal law; 44349

(2) Attorneys-at-law acting on behalf of their clients in the 44350  
adjustment of claims or losses; 44351

(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;

(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;

(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;

(7) A political subdivision or any combination or consortium of two or more political subdivisions.

(D) As used in this section:

(1) "Political subdivision" means any county; municipal 44382  
corporation; township; township police district; township fire 44383  
district; joint fire district; joint ambulance district; joint 44384  
emergency medical services district; fire and ambulance district; 44385  
joint recreation district; township waste disposal district; 44386  
township road district; community college district; technical 44387  
college district; detention facility district; a district 44388  
organized under section 2151.65 of the Revised Code; a combined 44389  
district organized under sections 2151.65 and 2152.41 of the 44390  
Revised Code; a joint-county alcohol, drug addiction, and mental 44391  
health service district; a drainage improvement district created 44392  
under section 6131.52 of the Revised Code; a union cemetery 44393  
district; a county school financing district; a city, local, 44394  
exempted village, cooperative education, or joint vocational 44395  
school district; or a regional student education district created 44396  
under section 3313.83 of the Revised Code, any public division, 44397  
district, commission, authority, department, board, officer, or 44398  
institution of any one or more of those political subdivisions, 44399  
that is entirely or substantially supported by public tax moneys. 44400

(2) "Municipal corporation" means all municipal corporations, 44401  
including those that have adopted a charter under Article XVIII, 44402  
Ohio Constitution. 44403

**Sec. 4104.01.** As used in sections 4104.01 to 4104.20 and 44404  
section 4104.99 of the Revised Code: 44405

(A) "Board of building standards" or "board" means the board 44406  
established by section 3781.07 of the Revised Code. 44407

(B) "Superintendent" means the superintendent of ~~labor~~ 44408  
industrial compliance created by section 121.04 of the Revised 44409  
Code. 44410

(C) "Boiler" means a closed vessel in which water is heated, 44411  
steam is generated, steam is superheated, or any combination 44412

thereof, under pressure or vacuum for use externally to itself by 44413  
the direct application of heat from the combustion of fuels, or 44414  
from electricity or nuclear energy. "Boiler" includes fired units 44415  
for heating or vaporizing liquids other than water where these 44416  
units are separate from processing systems and are complete within 44417  
themselves. 44418

(D) "Power boiler" means a boiler in which steam or other 44419  
vapor (to be used externally to itself) is generated at a pressure 44420  
of more than fifteen psig. 44421

(E) "High pressure, high temperature water boiler" means a 44422  
water heating boiler operating at pressures exceeding one hundred 44423  
sixty psig or temperatures exceeding two hundred fifty degrees 44424  
Fahrenheit. 44425

(F) "Low pressure boiler" means a steam boiler operating at 44426  
pressures not exceeding fifteen psig, or a hot water heating 44427  
boiler operating at pressures not exceeding one hundred sixty psig 44428  
or temperatures not exceeding two hundred fifty degrees 44429  
Fahrenheit. 44430

(G) "Pressure vessel" means a container for the containment 44431  
of pressure, either internal or external. This pressure may be 44432  
obtained from an external source or by the application of heat 44433  
from a direct or indirect source or any combination thereof. 44434

(H) "Process boiler" means a boiler to which all of the 44435  
following apply: 44436

(1) The steam in the boiler is either generated or 44437  
superheated, or both, under pressure or vacuum for use external to 44438  
itself. 44439

(2) The source of heat for the boiler is in part or in whole 44440  
from a process other than the boiler itself. 44441

(3) The boiler is part of a continuous processing unit, such 44442

as used in chemical manufacture or petroleum refining, other than 44443  
a steam-generated process unit. 44444

(I) "Stationary steam engine" means an engine or turbine in 44445  
which the mechanical force arising from the elasticity and 44446  
expansion action of steam or from its property of rapid 44447  
condensation or from a combination of the two is made available as 44448  
a motive power. 44449

**Sec. 4104.02.** The board of building standards shall: 44450

(A) Formulate rules for the construction, installation, 44451  
repair, conservation of energy, and operation of boilers and the 44452  
construction and repair of pressure vessels and for ascertaining 44453  
the safe working pressures to be carried on such boilers and 44454  
pressure vessels and the qualification of inspectors of boilers 44455  
and pressure vessels; 44456

(B) Prescribe tests, if it is considered necessary, to 44457  
ascertain the qualities of materials used in the construction of 44458  
boilers and pressure vessels; 44459

(C) Adopt rules regulating the construction and sizes of 44460  
safety valves for boilers and pressure vessels of different sizes 44461  
and pressures, for the construction, use, and location of fusible 44462  
plugs, appliances for indicating the pressure of steam and level 44463  
of water in the boiler or pressure vessels, and such other 44464  
appliances as the board considers necessary to safety in operating 44465  
boilers; 44466

(D) Establish reasonable fees for the performance of reviews, 44467  
surveys, or audits of manufacturer's facilities by the division of 44468  
~~labor~~ industrial compliance for certification by the American 44469  
society of mechanical engineers and the national board of boiler 44470  
and pressure vessel inspectors; 44471

(E) The definitions and rules adopted by the board for the 44472

construction, installation, repair, conservation of energy, and 44473  
operation of boilers and the construction and repair of pressure 44474  
vessels and for ascertaining the safe working pressures to be used 44475  
on such boilers and pressure vessels shall be based upon and 44476  
follow generally accepted engineering standards, formulae, and 44477  
practices established and pertaining to boilers and pressure 44478  
vessel construction, operation, and safety, and the board may, for 44479  
this purpose, adopt existing published standards as well as 44480  
amendments thereto subsequently published by the same authority. 44481

When a person desires to manufacture a special type of boiler 44482  
or pressure vessel, the design of which is not covered by the 44483  
rules of the board, the person shall submit drawings and 44484  
specifications of such boiler or pressure vessel to the board for 44485  
investigation, after which the board may permit its installation. 44486

The provisions of sections 119.03 and 119.11 of the Revised 44487  
Code in particular, and the applicable provisions of Chapter 119. 44488  
of the Revised Code in general, shall govern the proceedings of 44489  
the board of building standards in adopting, amending, or 44490  
rescinding rules pursuant to this section. 44491

**Sec. 4104.06.** (A) The inspection of boilers and their 44492  
appurtenances and pressure vessels shall be made by the inspectors 44493  
mentioned in sections 4104.07 to 4104.20 of the Revised Code. The 44494  
superintendent of ~~labor~~ industrial compliance shall administer and 44495  
enforce such sections and rules adopted by the board of building 44496  
standards pursuant to section 4104.02 of the Revised Code. 44497

(B) The superintendent shall adopt, amend, and repeal rules 44498  
exclusively for the issuance, renewal, suspension, and revocation 44499  
of certificates of competency and certificates of operation, for 44500  
conducting hearings in accordance with Chapter 119. of the Revised 44501  
Code related to these actions, and for the inspection of boilers 44502  
and their appurtenances, and pressure vessels. 44503

(C) Notwithstanding division (B) of this section, the 44504  
superintendent shall not adopt rules relating to construction, 44505  
maintenance, or repair of boilers and their appurtenances, or 44506  
repair of pressure vessels. 44507

(D) The superintendent and each general inspector may enter 44508  
any premises and any building or room at all reasonable hours to 44509  
perform an examination or inspection. 44510

**Sec. 4104.07.** (A) An application for examination as an 44511  
inspector of boilers and pressure vessels shall be in writing, 44512  
accompanied by a fee of one hundred fifty dollars, upon a blank to 44513  
be furnished by the superintendent of ~~labor~~ industrial compliance. 44514  
Any moneys collected under this section shall be paid into the 44515  
state treasury to the credit of the ~~labor~~ industrial compliance 44516  
operating fund created in section 121.084 of the Revised Code. 44517

(B) The superintendent shall determine if an applicant meets 44518  
all the requirements for examination in accordance with rules 44519  
adopted by the board of building standards under section 4104.02 44520  
of the Revised Code. An application shall be rejected which 44521  
contains any willful falsification, or untruthful statements. 44522

(C) An applicant shall be examined by the superintendent, by 44523  
a written examination, prescribed by the board, dealing with the 44524  
construction, installation, operation, maintenance, and repair of 44525  
boilers and pressure vessels and their appurtenances, and the 44526  
applicant shall be accepted or rejected on the merits of the 44527  
applicant's application and examination. 44528

(D) Upon a favorable report by the superintendent of the 44529  
result of an examination, the superintendent shall immediately 44530  
issue to the successful applicant a certificate of competency to 44531  
that effect. 44532

**Sec. 4104.08.** (A) The director of commerce may appoint from 44533

the holders of certificates of competency provided for in section 44534  
4104.07 of the Revised Code, general inspectors of boilers and 44535  
pressure vessels. 44536

(B) Any company authorized to insure boilers and pressure 44537  
vessels against explosion in this state may designate from holders 44538  
of certificates of competency issued by the superintendent of 44539  
~~labor~~ industrial compliance, or holders of certificates of 44540  
competency or commissions issued by other states or nations whose 44541  
examinations for certificates or commissions have been approved by 44542  
the board of building standards, persons to inspect and stamp 44543  
boilers and pressure vessels covered by the company's policies, 44544  
and the superintendent shall issue to such persons commissions 44545  
authorizing them to act as special inspectors. Special inspectors 44546  
shall be compensated by the company designating them. 44547

(C) The director shall establish an annual fee to be charged 44548  
by the superintendent for each certificate of competency or 44549  
commission the superintendent issues. 44550

(D) The superintendent shall issue to each general or special 44551  
inspector a commission to the effect that the holder thereof is 44552  
authorized to inspect boilers and pressure vessels in this state. 44553

(E) No person shall be authorized to act as a general 44554  
inspector or a special inspector who is directly or indirectly 44555  
interested in the manufacture or sale of boilers or pressure 44556  
vessels. 44557

**Sec. 4104.09.** The certificate of competency issued under 44558  
section 4104.07 of the Revised Code or the commission provided for 44559  
in section 4104.08 of the Revised Code may be revoked by the 44560  
superintendent of ~~labor~~ industrial compliance for the incompetence 44561  
or untrustworthiness of the holder thereof, or for willful 44562  
falsification of any matter or statement contained in the holder's 44563  
application or in a report of any inspection in accordance with 44564

Chapter 119. of the Revised Code. If a certificate or commission 44565  
is lost or destroyed, a new certificate or commission shall be 44566  
issued in its place without another examination. 44567  
44568

**Sec. 4104.10.** All unfired pressure vessels, except unfired 44569  
pressure vessels exempt under section 4104.04 of the Revised Code, 44570  
shall be thoroughly inspected during fabrication and upon 44571  
completion and shall not be operated until a copy of the 44572  
manufacturers' data report, properly executed and signed by the 44573  
inspector is filed in the office of the superintendent of ~~labor~~ 44574  
industrial compliance. All unfired pressure vessels shall conform 44575  
in every detail with applicable rules adopted by the board of 44576  
building standards pursuant to section 4104.02 of the Revised 44577  
Code. 44578

**Sec. 4104.101.** (A) No person shall install or make major 44579  
repairs or modifications to any boiler without first registering 44580  
to do so with the division of ~~labor~~ industrial compliance. 44581

(B) No person shall make any installation or major repair or 44582  
modification of any boiler without first obtaining a permit to do 44583  
so from the division. The permit application form shall provide 44584  
the name and address of the owner, location of the boiler, and 44585  
type of repair or modification that will be made. The application 44586  
permit fee shall be one hundred dollars. 44587

(C) The superintendent of ~~labor~~ industrial compliance shall 44588  
require annual registration of all contractors who install, make 44589  
major repairs to, or modify any boiler. The board of building 44590  
standards shall establish a reasonable fee to cover the cost of 44591  
processing registrations. 44592

**Sec. 4104.12.** All boilers, except boilers mentioned in 44593  
section 4104.04 of the Revised Code, shall be inspected when 44594

installed and shall not be operated until an appropriate 44595  
certificate of operation has been issued by the superintendent of 44596  
~~labor~~ industrial compliance. The certificate of operation required 44597  
by this section shall not be issued for any boiler which has not 44598  
been thoroughly inspected during construction and upon completion, 44599  
by either a general or special inspector, and which does not 44600  
conform in every detail with the rules adopted by the board of 44601  
building standards and unless, upon completion, such boiler is 44602  
distinctly stamped under such rules by such inspector. 44603

**Sec. 4104.15.** (A) All certificates of inspection for boilers, 44604  
issued prior to October 15, 1965, are valid and effective for the 44605  
period set forth in such certificates unless sooner withdrawn by 44606  
the superintendent of ~~labor~~ industrial compliance. The owner or 44607  
user of any such boiler shall obtain an appropriate certificate of 44608  
operation for such boiler, and shall not operate such boiler, or 44609  
permit it to be operated unless a certificate of operation has 44610  
been obtained in accordance with section 4104.17 of the Revised 44611  
Code. 44612

(B) If, upon making the internal and external inspection 44613  
required under sections 4104.11, 4104.12, and 4104.13 of the 44614  
Revised Code, the inspector finds the boiler to be in safe working 44615  
order, with the fittings necessary to safety, and properly set up, 44616  
upon the inspector's report to the superintendent, the 44617  
superintendent shall issue to the owner or user thereof, or renew, 44618  
upon application and upon compliance with sections 4104.17 and 44619  
4104.18 of the Revised Code, a certificate of operation which 44620  
shall state the maximum pressure at which the boiler may be 44621  
operated, as ascertained by the rules of the board of building 44622  
standards. Such certificates shall also state the name of the 44623  
owner or user, the location, size, and number of each boiler, and 44624  
the date of issuance, and shall be so placed as to be easily read 44625  
in the engine room or boiler room of the plant where the boiler is 44626

located, except that the certificate of operation for a portable 44627  
boiler shall be kept on the premises and shall be accessible at 44628  
all times. 44629

(C) If an inspector at any inspection finds that the boiler 44630  
or pressure vessel is not in safe working condition, or is not 44631  
provided with the fittings necessary to safety, or if the fittings 44632  
are improperly arranged, the inspector shall immediately notify 44633  
the owner or user and person in charge of the boiler and shall 44634  
report the same to the superintendent who may revoke, suspend, or 44635  
deny the certificate of operation and not renew the same until the 44636  
boiler or pressure vessel and its fittings are put in condition to 44637  
insure safety of operation, and the owner or user shall not 44638  
operate the boiler or pressure vessel, or permit it to be operated 44639  
until such certificate has been granted or restored. 44640

(D) If the superintendent or a general boiler inspector finds 44641  
that a pressure vessel or boiler or a part thereof poses an 44642  
explosion hazard that reasonably can be regarded as posing an 44643  
imminent danger of death or serious physical harm to persons, the 44644  
superintendent or the general boiler inspector shall seal the 44645  
pressure vessel or boiler and order, in writing, the operator or 44646  
owner of the pressure vessel or boiler to immediately cease the 44647  
pressure vessel's or boiler's operation. The order shall be 44648  
effective until the nonconformities are eliminated, corrected, or 44649  
otherwise remedied, or for a period of seventy-two hours from the 44650  
time of issuance, whichever occurs first. During the 44651  
seventy-two-hour period, the superintendent may request that the 44652  
prosecuting attorney or city attorney of Franklin county or of the 44653  
county in which the pressure vessel or boiler is located obtain an 44654  
injunction restraining the operator or owner of the pressure 44655  
vessel or boiler from continuing its operation after the 44656  
seventy-two-hour period expires until the nonconformities are 44657  
eliminated, corrected, or otherwise remedied. 44658

(E) Each boiler which has been inspected shall be assigned a number by the superintendent, which number shall be stamped on a nonferrous metal tag affixed to the boiler or its fittings by seal or otherwise. No person except an inspector shall deface or remove any such number or tag.

(F) If the owner or user of any pressure vessel or boiler disagrees with the inspector as to the necessity for shutting down a pressure vessel or boiler or for making repairs or alterations in it, or taking any other measures for safety that are requested by an inspector, the owner or user may appeal from the decision of the inspector to the superintendent, who may, after such other inspection by a general inspector or special inspector as the superintendent deems necessary, decide the issue.

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, nor an inspection or report by any inspector, shall relieve the owner or user of a pressure vessel or boiler of the duty of using due care in the inspection, operation, and repair of the pressure vessel or boiler or of any liability for damages for failure to inspect, repair, or operate the pressure vessel or boiler safely.

**Sec. 4104.16.** The owner or user of any boiler required by sections 4104.01 to 4104.20 of the Revised Code, to be inspected, shall immediately notify the superintendent of ~~labor~~ industrial compliance in case a defect affecting the safety of the boiler is discovered.

The owner or user of any stationary boiler required by such sections to be inspected, who moves the same, shall report to the superintendent the new location of the boiler. Such boiler shall be inspected before it is again operated.

**Sec. 4104.17.** Certificates of operation issued for boilers subject to inspection under Chapter 4104. of the Revised Code

shall be issued and renewed in accordance with and at dates 44689  
prescribed by rules and regulations adopted by the superintendent 44690  
of ~~labor~~ industrial compliance. 44691

**Sec. 4104.18.** (A) The owner or user of a boiler required 44692  
under section 4104.12 of the Revised Code to be inspected upon 44693  
installation, and the owner or user of a boiler for which a 44694  
certificate of inspection has been issued which is replaced with 44695  
an appropriate certificate of operation, shall pay to the 44696  
superintendent of ~~labor~~ industrial compliance a fee in the amount 44697  
of fifty dollars for boilers subject to annual inspections under 44698  
section 4104.11 of the Revised Code, one hundred dollars for 44699  
boilers subject to biennial inspection under section 4104.13 of 44700  
the Revised Code, one hundred fifty dollars for boilers subject to 44701  
triennial inspection under section 4104.11 of the Revised Code, or 44702  
two hundred fifty dollars for boilers subject to quinquennial 44703  
inspection under section 4104.13 of the Revised Code. 44704

(B) The fee for complete inspection during construction by a 44705  
general inspector on boilers and pressure vessels manufactured 44706  
within the state shall be thirty-five dollars per hour. Boiler and 44707  
pressure vessel manufacturers other than those located in the 44708  
state may secure inspection by a general inspector on work during 44709  
construction, upon application to the superintendent, and upon 44710  
payment of a fee of thirty-five dollars per hour, plus the 44711  
necessary traveling and hotel expenses incurred by the inspector. 44712

(C) The application fee for applicants for steam engineer, 44713  
high pressure boiler operator, or low pressure boiler operator 44714  
licenses is seventy-five dollars. The fee for each original or 44715  
renewal steam engineer, high pressure boiler operator, or low 44716  
pressure boiler operator license is fifty dollars. 44717

(D) The director of commerce, subject to the approval of the 44718  
controlling board, may establish fees in excess of the fees 44719

provided in divisions (A), (B), and (C) of this section. Any 44720  
moneys collected under this section shall be paid into the state 44721  
treasury to the credit of the ~~labor~~ industrial compliance 44722  
operating fund created in section 121.084 of the Revised Code. 44723

(E) Any person who fails to pay an invoiced renewal fee or an 44724  
invoiced inspection fee required for any inspection conducted by 44725  
the division of ~~labor~~ industrial compliance pursuant to this 44726  
chapter within forty-five days of the invoice date shall pay a 44727  
late payment fee equal to twenty-five per cent of the invoiced 44728  
fee. 44729

(F) In addition to the fees assessed in divisions (A) and (B) 44730  
of this section, the board of building standards shall assess the 44731  
owner or user a fee of three dollars and twenty-five cents for 44732  
each certificate of operation or renewal thereof issued under 44733  
division (A) of this section and for each inspection conducted 44734  
under division (B) of this section. The board shall adopt rules, 44735  
in accordance with Chapter 119. of the Revised Code, specifying 44736  
the manner by which the superintendent shall collect and remit to 44737  
the board the fees assessed under this division and requiring that 44738  
remittance of the fees be made at least quarterly. 44739

**Sec. 4104.19.** (A) Any person seeking a license to operate as 44740  
a steam engineer, high pressure boiler operator, or low pressure 44741  
boiler operator shall file a written application with the 44742  
superintendent of ~~labor~~ industrial compliance on a form prescribed 44743  
by the superintendent with the appropriate application fee as set 44744  
forth in section 4104.18 of the Revised Code. The application 44745  
shall contain information satisfactory to the superintendent to 44746  
demonstrate that the applicant meets the requirements of division 44747  
(B) of this section. The application shall be filed with the 44748  
superintendent not more than sixty days and not less than thirty 44749  
days before the license examination is offered. 44750

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

(1) Be at least eighteen years of age;

(2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(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:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;

(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. 44781

(F) Each license issued under this chapter expires one year 44782  
after the date of issue. Each person holding a valid, unexpired 44783  
license may renew the license, without reexamination, by applying 44784  
to the superintendent not more than ninety days before the 44785  
expiration of the license, and submitting with the application the 44786  
renewal fee established in section 4104.18 of the Revised Code. 44787  
Upon receipt of the renewal information and fee, the 44788  
superintendent shall issue the licensee a certificate of renewal. 44789

(G) The superintendent, in accordance with Chapter 119. of 44790  
the Revised Code, may suspend or revoke any license, or may refuse 44791  
to issue a license under this chapter upon finding that a licensee 44792  
or an applicant for a license has violated or is violating the 44793  
requirements of this chapter. 44794

**Sec. 4104.21.** On receipt of a notice pursuant to section 44795  
3123.43 of the Revised Code, the superintendent of ~~labor~~ 44796  
industrial compliance shall comply with sections 3123.41 to 44797  
3123.50 of the Revised Code and any applicable rules adopted under 44798  
section 3123.63 of the Revised Code with respect to a certificate 44799  
or license issued pursuant to this chapter. 44800

**Sec. 4104.33.** There is hereby created the historical boilers 44801  
licensing board consisting of seven members, three of whom shall 44802  
be appointed by the governor with the advice and consent of the 44803  
senate. The governor shall make initial appointments to the board 44804  
within ninety days after October 24, 2002. Of the initial members 44805  
appointed by the governor, one shall be for a term ending three 44806  
years after October 24, 2002, one shall be for a term ending four 44807  
years after October 24, 2002, and one shall be for a term ending 44808  
five years after October 24, 2002. Thereafter, terms of office 44809  
shall be for five years, each term ending on the same day of the 44810

same month of the year as did the term that it succeeds. Of the 44811  
three members the governor appoints, one member shall be an 44812  
employee of the division of boiler inspection in the department of 44813  
commerce; one member shall be an independent mechanical engineer 44814  
who is not involved in selling or inspecting historical boilers; 44815  
and one shall be an active member of an association that 44816  
represents managers of fairs or festivals. 44817

Two members of the board shall be appointed by the president 44818  
of the senate and two members of the board shall be appointed by 44819  
the speaker of the house of representatives. The president and 44820  
speaker shall make initial appointments to the board within ninety 44821  
days after October 24, 2002. Of the initial members appointed by 44822  
the president, one shall be for a term ending four years after 44823  
October 24, 2002 and one shall be for a term ending five years 44824  
after October 24, 2002. Of the initial members appointed by the 44825  
speaker, one shall be for a term ending three years after October 44826  
24, 2002 and one shall be for a term ending five years after 44827  
October 24, 2002. Thereafter, terms of office shall be for five 44828  
years, each term ending on the same day of the same month of the 44829  
year as did the term that it succeeds. Of the four members 44830  
appointed by the president and speaker, each shall own a 44831  
historical boiler and also have at least ten years of experience 44832  
in the operation of historical boilers, and each of these four 44833  
members shall reside in a different region of the state. 44834

Each member shall hold office from the date of the member's 44835  
appointment until the end of the term for which the member was 44836  
appointed. Members may be reappointed. Vacancies shall be filled 44837  
in the manner provided for initial appointments. Any member 44838  
appointed to fill a vacancy occurring prior to the expiration date 44839  
of the term for which the member's predecessor was appointed shall 44840  
hold office as a member for the remainder of that term. A member 44841  
shall continue in office subsequent to the expiration date of the 44842

member's term until the successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The members of the board, annually, shall elect, by majority vote, a chairperson from among their members. The board shall meet at least once annually and at other times at the call of the chairperson. Board members shall receive their actual and necessary expenses incurred in the discharge of their duties as board members.

The superintendent of ~~labor~~ industrial compliance shall furnish office space, staff, and supplies to the board as the superintendent determines are necessary for the board to carry out its official duties under sections 4104.33 to 4104.37 of the Revised Code.

**Sec. 4104.42.** (A) The owner of any power piping or process piping system shall ensure that all of the following are performed in compliance with applicable sections of the B31 standards contained in the code for pressure piping, published by the American society of mechanical engineers:

(1) The design, fabrication, assembly, installation, testing, examination, and inspection of power and process piping systems;

(2) Qualification of personnel and qualification of welding and brazing procedures;

(3) The implementation of an inspection program.

(B) The owner of a power piping or process piping system shall do both of the following:

(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:

(a) The specific edition of the code for pressure piping used in the design;

|  |  |
|--|--|
| (b) The design assumptions;  | 44873  |
| (c) The calculations, piping material specifications, and construction documents for the piping;   | 44874<br>44875   |
| (d) The records of piping alterations;   | 44876  |
| (e) The piping examination and inspection records.   | 44877  |
| (2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code. | 44878<br>44879<br>44880<br>44881<br>44882<br>44883<br>44884<br>44885 |
| (C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of <del>labor</del> <u>industrial compliance</u> in the department of commerce or to a certified building department for approval.  | 44886<br>44887<br>44888<br>44889                                     |
| (D) Nothing in this section limits the application of Chapters 4703. and 4733. of the Revised Code.  | 44890<br>44891   |
| <b>Sec. 4104.43.</b> (A)(1) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for building services piping.  | 44892<br>44893<br>44894<br>44895                                     |
| (2) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for nonflammable medical gas, medical oxygen, and medical vacuum piping systems.   | 44896<br>44897<br>44898<br>44899                                     |
| (B) A municipal, township, or county building department certified under division (E) of section 3781.10 of the Revised Code shall enforce the rules the board adopts pursuant to division   | 44900<br>44901<br>44902  |

(A)(2) of this section if that building department requests and obtains special certification to enforce those rules.

(C) In a health district where no municipal, township, or county building department is specially certified under division (B) of this section, an employee of the health district shall enforce the rules adopted pursuant to division (A)(2) of this section if both of the following conditions are satisfied:

(1) The health district employee requests and obtains special certification by the board to enforce those rules.

(2) The health district notifies the superintendent of the division of ~~labor~~ industrial compliance in the department of commerce that the health district's specially certified employee shall enforce those rules.

(D) In a jurisdiction where enforcement authority as described in divisions (B) and (C) of this section does not exist, the superintendent of ~~labor~~ industrial compliance shall enforce the rules the board adopts pursuant to division (A)(2) of this section.

**Sec. 4104.44.** All welding and brazing of metallic piping systems shall be performed in accordance with section IX of the boiler and pressure vessel code, published by the American society of mechanical engineers. The owner shall maintain, at the job site, the certified performance qualification records of all welders and brazers employed at the facility. The owner shall submit copies of all certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping for review to the superintendent of ~~labor~~ industrial compliance in the department of commerce in accordance with rules the superintendent adopts. The submission shall be accompanied by the fee the superintendent establishes.

**Sec. 4104.48.** (A) No person shall violate sections 4104.41 to 44934  
4104.48 of the Revised Code, fail to perform any duty lawfully 44935  
enjoined in connection with those sections, or fail to comply with 44936  
any order issued by the superintendent of ~~labor~~ industrial 44937  
compliance or any judgment or decree issued by any court in 44938  
connection with the enforcement of sections 4104.41 to 4104.48 of 44939  
the Revised Code. 44940

(B) Every day during which a person violates sections 4104.41 44941  
to 4104.48 of the Revised Code, fails to perform any duty lawfully 44942  
enjoined in connection with those sections, or fails to comply 44943  
with any order issued by the superintendent or any judgment or 44944  
decree issued by any court in connection with the enforcement of 44945  
sections 4104.41 to 4104.48 of the Revised Code constitutes a 44946  
separate offense. 44947

**Sec. 4105.01.** As used in this chapter: 44948

(A) "Elevator" means a hoisting and lowering apparatus 44949  
equipped with a car, cage, or platform which moves on or between 44950  
permanent rails or guides and serves two or more fixed landings in 44951  
a building or structure to which section 3781.06 of the Revised 44952  
Code applies. "Elevator" includes dumb-waiters other than 44953  
hand-powered dumb-waiters, escalators, ~~peoplelifts~~ manlifts, 44954  
moving walks, of the endless belt type, other lifting or lowering 44955  
apparatus permanently installed on or between rails or guides, and 44956  
all equipment, machinery, and construction related to any 44957  
elevator; but does not include construction hoists and other 44958  
similar temporary lifting or lowering apparatuses, ski lifts, 44959  
traveling, portable amusement rides or devices that are not 44960  
affixed to a permanent foundation, or nonportable amusement rides 44961  
or devices that are affixed to a permanent foundation. 44962

(B) "Passenger elevator" means an elevator that is designed 44963

to carry persons to its contract capacity. 44964

(C) "Freight elevator" means an elevator normally used for 44965  
carrying freight and on which only the operator and employees in 44966  
the pursuit of their duties, by the permission of the employer, 44967  
are allowed to ride. 44968

(D) "Gravity elevator" means an elevator utilizing gravity to 44969  
move. 44970

(E) "General inspector" means a state inspector examined and 44971  
hired to inspect elevators and lifting apparatus for that state. 44972

(F) "Special inspector" means an inspector examined and 44973  
commissioned by the superintendent of ~~labor~~ industrial compliance 44974  
to inspect elevators and lifting apparatus in the state. 44975

(G) "Inspector" means either a general or special inspector. 44976

**Sec. 4105.02.** No person may act, either as a general 44977  
inspector or as a special inspector, of elevators, unless the 44978  
person holds a certificate of competency from the division of 44979  
~~labor~~ industrial compliance. 44980

Application for examination as an inspector of elevators 44981  
shall be in writing, accompanied by a fee to be established as 44982  
provided in section 4105.17 of the Revised Code, and upon a blank 44983  
to be furnished by the division, stating the school education of 44984  
the applicant, a list of the applicant's employers, the 44985  
applicant's period of employment, and the position held with each. 44986  
An applicant shall also submit a letter from one or more of the 44987  
applicant's previous employers certifying as to the applicant's 44988  
character and experience. 44989

Applications shall be rejected which contain any willful 44990  
falsification or untruthful statements. An applicant, if the 44991  
division considers the applicant's history and experience 44992  
sufficient, shall be examined by the superintendent of ~~labor~~ 44993

industrial compliance by a written examination dealing with the 44994  
construction, installation, operation, maintenance, and repair of 44995  
elevators and their appurtenances, and the applicant shall be 44996  
accepted or rejected on the merits of the applicant's application 44997  
and examination. 44998

The superintendent shall issue a certificate of competency in 44999  
the inspection of elevators to any applicant found competent upon 45000  
examination. A rejected applicant shall be entitled, after the 45001  
expiration of ninety days and upon payment of an examination fee 45002  
to be established as provided in section 4105.17 of the Revised 45003  
Code, to another examination. Should an applicant fail to pass the 45004  
prescribed examination on second trial, the applicant will not be 45005  
permitted to be an applicant for another examination for a period 45006  
of one year after the second examination. 45007

**Sec. 4105.03.** The superintendent of ~~labor~~ industrial 45008  
compliance, with the consent of the director of commerce, shall 45009  
hire an assistant who has at least ten years of experience in the 45010  
construction, installation, maintenance, and repair of elevators 45011  
and their appurtenances. 45012

The superintendent, with the consent of the director, and in 45013  
compliance with Chapter 124. of the Revised Code, may appoint and 45014  
hire general inspectors of elevators from the holders of 45015  
certificates of competency. 45016

**Sec. 4105.04.** From the holders of certificates of competency 45017  
in the inspection of elevators, any company that is authorized to 45018  
insure elevators in the state, may designate persons to inspect 45019  
elevators covered by such company's policies, and the department 45020  
of public safety of any city and the clerk of any village may 45021  
designate persons to inspect elevators in such city or village. 45022  
Such persons shall, upon the payment of a fee to be established as 45023

provided in section 4105.17 of the Revised Code, have issued to 45024  
them annually by the division of ~~labor~~ industrial compliance, 45025  
commissions to serve as special inspectors of elevators in the 45026  
state. 45027

**Sec. 4105.05.** A commission to serve as a special inspector 45028  
may be suspended or revoked by the superintendent of ~~labor~~ 45029  
industrial compliance, for the incompetence or untrustworthiness 45030  
of the holder thereof, or for the falsification of any matter or 45031  
statement contained in the holder's application or in a report of 45032  
any inspection. 45033

**Sec. 4105.06.** If a certificate or commission issued under 45034  
sections 4105.02 and 4105.04 of the Revised Code is lost or 45035  
destroyed a new one shall be issued in its place by the division 45036  
of ~~labor~~ industrial compliance without another examination, upon 45037  
the payment of a fee to be established as provided in section 45038  
4105.07 of the Revised Code. 45039

**Sec. 4105.09.** The owner or user of any elevator shall 45040  
register, with the division of ~~labor~~ industrial compliance, every 45041  
elevator operated by the owner or user, giving the type, capacity, 45042  
and description, name of manufacturer, and purpose for which each 45043  
is used. Such registration shall be made on a form to be furnished 45044  
by the division. 45045

**Sec. 4105.11.** The inspection of elevators shall be made by 45046  
the inspectors authorized in sections 4105.03 and 4105.04 of the 45047  
Revised Code, under the supervision of the superintendent of ~~labor~~ 45048  
industrial compliance, and the superintendent shall enforce this 45049  
chapter and any rules adopted pursuant thereto. 45050

Every inspector shall forward to the superintendent a full 45051  
and complete report of each inspection made of any elevator and 45052

shall, on the day the inspection is completed, leave a copy of 45053  
such report with the owner or operator of the elevator, or the 45054  
owner's or operator's agent or representative. Such report shall 45055  
indicate the exact condition of the elevator and shall list any 45056  
and all of the provisions of this chapter and any rules adopted 45057  
pursuant thereto, with which the elevator does not comply. Before 45058  
attempting to enforce, by any remedy, civil or criminal, the 45059  
provisions with which the inspected elevator does not comply, the 45060  
chief shall issue an adjudication order within the meaning of 45061  
Chapter 119. of the Revised Code. 45062

The approval of construction plans, or an application of 45063  
specifications under section 4105.16 of the Revised Code is a 45064  
license, and the failure to approve such plans or specifications 45065  
by the chief within sixty days after they are filed is an 45066  
adjudication order denying the issuance of a license. 45067

Every adjudication order shall specify what appliances, site 45068  
preparations, additions, repairs, or alterations to any elevators, 45069  
plans, materials, assemblages, or procedures are necessary for the 45070  
same to comply with this chapter, or any rules adopted pursuant 45071  
thereto. Such adjudication order shall be issued pursuant to 45072  
Chapter 119. of the Revised Code and shall be effective without 45073  
prior hearing, within thirty days after the receipt of such order, 45074  
the owner of the elevator specified therein may appeal to the 45075  
board of building appeals under section 3781.19 of the Revised 45076  
Code. 45077

Notwithstanding the provisions of Chapter 119. of the Revised 45078  
Code relating to adjudication hearings, a stenographic or 45079  
mechanical record of the testimony and other evidence submitted 45080  
before the board of building appeals shall be taken at the expense 45081  
of the agency. A party adversely affected by an order issued 45082  
following such adjudication hearing may appeal to the court of 45083  
common pleas of the county in which the party is a resident or in 45084

which the elevator affected by such order is located. The court in 45085  
such case shall not be confined to the record as certified to it 45086  
by the agency, but any party may produce additional evidence and 45087  
the court shall hear the matter upon such record and such 45088  
additional evidence as is introduced by any party. The court shall 45089  
not affirm the order of the agency unless the preponderance of the 45090  
evidence before it supports the reasonableness and lawfulness of 45091  
such order, and of any rules upon which the order of the agency is 45092  
based in its application to the facts involved in the appeal. 45093

Failure to comply with the requirements of any order issued 45094  
pursuant to this section or the continued operation of any 45095  
elevator after it has been sealed pursuant to section 4105.21 of 45096  
the Revised Code is hereby declared a public nuisance. 45097

**Sec. 4105.12.** (A) The superintendent of ~~labor~~ industrial 45098  
compliance shall adopt, amend, and repeal rules exclusively for 45099  
the issuance, renewal, suspension, and revocation of certificates 45100  
of competency and certificates of operation, for the conduct of 45101  
hearings related to these actions, and for the inspection of 45102  
elevators. 45103

(B) Notwithstanding division (A) of this section, the 45104  
superintendent shall not adopt rules relating to construction, 45105  
maintenance, and repair of elevators. 45106

**Sec. 4105.13.** Every elevator shall be constructed, equipped, 45107  
maintained, and operated, with respect to the supporting members, 45108  
elevator car, shaftways, guides, cables, doors, and gates, safety 45109  
stops and mechanism, electrical apparatus and wiring, mechanical 45110  
apparatus, counterweights, and all other appurtenances, in 45111  
accordance with state laws and rules as are authorized in respect 45112  
thereto. Where reasonable safety is obtained without complying to 45113  
the literal requirements of such rules as in cases of practical 45114

difficulty or unnecessary hardship, the literal requirements of 45115  
such rules shall not be required. The superintendent of ~~labor~~ 45116  
industrial compliance may permit the installation of vertical 45117  
wheelchair lifts in public buildings to provide for handicapped 45118  
accessibility where such lifts do not meet the literal 45119  
requirements of the rules adopted by the board of building 45120  
standards pursuant to section 4105.011 of the Revised Code, 45121  
provided that reasonable safety may be obtained. 45122

**Sec. 4105.15.** No certificate of operation for any elevator 45123  
shall be issued by the director of commerce until such elevator 45124  
has been inspected as required by this chapter. Certificates of 45125  
operation shall be renewed by the owner or user of the elevator in 45126  
accordance with rules adopted by the superintendent of ~~labor~~ 45127  
industrial compliance pursuant to section 4105.12 of the Revised 45128  
Code. 45129

**Sec. 4105.16.** Before any new installation of an elevator of 45130  
permanent nature is erected or before any existing elevator is 45131  
removed to and installed in a different location, an application 45132  
of specifications in duplicate shall be submitted to the division 45133  
of ~~labor~~ industrial compliance giving such information concerning 45134  
the construction, installation, and operation of said elevator as 45135  
the division may require on forms to be furnished by the division, 45136  
together with complete construction plans in duplicate. In all 45137  
cases where any changes or repairs are made which alter its 45138  
construction or classification, grade or rated lifting capacity, 45139  
except when made pursuant to a report of an inspector, an 45140  
application of specifications in duplicate shall be submitted to 45141  
the division, containing such information, or approval, except in 45142  
those municipal corporations which maintain their own elevator 45143  
inspection departments, in which event such specifications shall 45144  
be submitted to the elevator department of the municipal 45145

corporation for its approval, and if approved, a permit for the 45146  
erection or repair of such elevator shall be issued by the 45147  
municipal corporation. Upon approval of such application and 45148  
construction plans, the superintendent of ~~labor~~ industrial 45149  
compliance shall issue a permit for the erection or repair of such 45150  
elevator. No new elevator shall be operated until completion in 45151  
accordance with the approved plans and specifications, unless a 45152  
temporary permit is granted by the division. 45153

The final inspection, before operation, of a permanent, new 45154  
or repaired elevator shall be made by a general inspector or a 45155  
special inspector designated by the superintendent. 45156

**Sec. 4105.17.** (A) The fee for each inspection, or attempted 45157  
inspection that, due to no fault of a general inspector or the 45158  
division of ~~labor~~ industrial compliance, is not successfully 45159  
completed, by a general inspector before the operation of a 45160  
permanent new elevator prior to the issuance of a certificate of 45161  
operation, before operation of an elevator being put back into 45162  
service after a repair or after an adjudication under section 45163  
4105.11 of the Revised Code, or as a result of the operation of 45164  
section 4105.08 of the Revised Code and is an elevator required to 45165  
be inspected under this chapter is one hundred twenty dollars plus 45166  
ten dollars for each floor where the elevator stops. The 45167  
superintendent of ~~labor~~ industrial compliance may assess an 45168  
additional fee of one hundred twenty dollars plus ten dollars for 45169  
each floor where an elevator stops for the reinspection of an 45170  
elevator when a previous attempt to inspect that elevator has been 45171  
unsuccessful through no fault of a general inspector or the 45172  
division of ~~labor~~ industrial compliance. 45173

(B) The fee for each inspection, or attempted inspection, 45174  
that due to no fault of the general inspector or the division, is 45175  
not successfully completed by a general inspector before operation 45176

of a permanent new escalator or moving walk prior to the issuance 45177  
of a certificate of operation, before operation of an escalator or 45178  
moving walk being put back in service after a repair, or as a 45179  
result of the operation of section 4105.08 of the Revised Code is 45180  
three hundred dollars. The superintendent may assess an additional 45181  
fee of one hundred fifty dollars for the reinspection of an 45182  
escalator or moving walk when a previous attempt to inspect that 45183  
escalator or moving walk has been unsuccessful through no fault of 45184  
the general inspector or the division. 45185

(C) The fee for issuing or renewing a certificate of 45186  
operation under section 4105.15 of the Revised Code for an 45187  
elevator that is inspected every six months in accordance with 45188  
division (A) of section 4105.10 of the Revised Code is two hundred 45189  
twenty dollars plus twelve dollars for each floor where the 45190  
elevator stops, except where the elevator has been inspected by a 45191  
special inspector in accordance with section 4105.07 of the 45192  
Revised Code. 45193

(D) The fee for issuing or renewing a certificate of 45194  
operation under section 4105.05 of the Revised Code for an 45195  
elevator that is inspected every twelve months in accordance with 45196  
division (A) of section 4105.10 of the Revised Code is fifty-five 45197  
dollars plus ten dollars for each floor where the elevator stops, 45198  
except where the elevator has been inspected by a special 45199  
inspector in accordance with section 4105.07 of the Revised Code. 45200

(E) The fee for issuing or renewing a certificate of 45201  
operation under section 4105.15 of the Revised Code for an 45202  
escalator or moving walk is three hundred dollars, except where 45203  
the escalator or moving walk has been inspected by a special 45204  
inspector in accordance section 4105.07 of the Revised Code. 45205

(F) All other fees to be charged for any examination given or 45206  
other service performed by the division pursuant to this chapter 45207  
shall be prescribed by the director of commerce. The fees shall be 45208

reasonably related to the costs of such examination or other 45209  
service. 45210

(G) The director of commerce, subject to the approval of the 45211  
controlling board, may establish fees in excess of the fees 45212  
provided in divisions (A), (B), (C), (D), and (E) of this section. 45213  
Any moneys collected under this section shall be paid into the 45214  
state treasury to the credit of the ~~labor~~ industrial compliance 45215  
operating fund created in section 121.084 of the Revised Code. 45216

(H) Any person who fails to pay an inspection fee required 45217  
for any inspection conducted by the division pursuant to this 45218  
chapter within forty-five days after the inspection is conducted 45219  
shall pay a late payment fee equal to twenty-five per cent of the 45220  
inspection fee. 45221

(I) In addition to the fees assessed in divisions (A), (B), 45222  
(C), (D), and (E) of this section, the board of building standards 45223  
shall assess a fee of three dollars and twenty-five cents for each 45224  
certificate of operation or renewal thereof issued under divisions 45225  
(A), (B), (C), (D), or (E) of this section and for each permit 45226  
issued under section 4105.16 of the Revised Code. The board shall 45227  
adopt rules, in accordance with Chapter 119. of the Revised Code, 45228  
specifying the manner by which the superintendent shall collect 45229  
and remit to the board the fees assessed under this division and 45230  
requiring that remittance of the fees be made at least quarterly. 45231

(J) For purposes of this section: 45232

(1) "Escalator" means a power driven, inclined, continuous 45233  
stairway used for raising or lowering passengers. 45234

(2) "Moving walk" means a passenger carrying device on which 45235  
passengers stand or walk, with a passenger carrying surface that 45236  
is uninterrupted and remains parallel to its direction of motion. 45237

**Sec. 4105.191.** Any person owning or operating any elevator 45238

subject to this chapter shall file a written report with the 45239  
superintendent of ~~labor~~ industrial compliance within seventy-two 45240  
hours after the occurrence of any accident involving such elevator 45241  
which results in death or bodily injury to any person. 45242

**Sec. 4105.20.** No person shall violate any law relative to the 45243  
operation, construction, maintenance, and repair of elevators. All 45244  
fines collected for violation of this section shall be forwarded 45245  
to the superintendent of ~~labor~~ industrial compliance, who shall 45246  
pay them into the state treasury to the credit of the ~~labor~~ 45247  
industrial compliance operating fund created in section 121.084 of 45248  
the Revised Code. 45249

**Sec. 4105.21.** The superintendent of ~~labor~~ industrial 45250  
compliance shall enforce this chapter. If the superintendent or a 45251  
general inspector of elevators finds that an elevator or a part 45252  
thereof does not afford reasonable safety as required by section 45253  
4105.13 of the Revised Code, the superintendent or the general 45254  
inspector may seal such elevator and post a notice thereon 45255  
prohibiting further use of the elevator until the changes or 45256  
alterations set forth in the notice have been made to the 45257  
satisfaction of the superintendent or the inspector. The notice 45258  
shall contain a statement that operators or passengers are subject 45259  
to injury by its continued use, a description of the alteration or 45260  
other change necessary to be made in order to secure safety of 45261  
operation, date of such notice, name and signature of the 45262  
superintendent or inspector issuing the notice. 45263

**Sec. 4115.10.** (A) No person, firm, corporation, or public 45264  
authority that constructs a public improvement with its own 45265  
forces, the total overall project cost of which is fairly 45266  
estimated to be more than the amounts set forth in division (B) of 45267  
section 4115.03 of the Revised Code, adjusted biennially by the 45268

director of commerce pursuant to section 4115.034 of the Revised Code, as appropriate, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The director shall deposit all moneys received from penalties paid to the director pursuant to this section into the ~~labor~~ industrial compliance operating fund. The director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within ninety days of the director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than the prevailing rate of wages applicable thereto may file a complaint in writing with the director upon a form furnished by the director. The complaint shall include documented evidence to demonstrate that the employee was paid less than the prevailing

wage in violation of this chapter. Upon receipt of a properly  
completed written complaint of any employee paid less than the  
prevailing rate of wages applicable, the director shall take an  
assignment of a claim in trust for the assigning employee and  
bring any legal action necessary to collect the claim. The  
employer shall pay the costs and reasonable attorney's fees  
allowed by the court if the employer is found in violation of  
sections 4115.03 to 4115.16 of the Revised Code.

(C) If after investigation pursuant to section 4115.13 of the  
Revised Code, the director determines there is a violation of  
sections 4115.03 to 4115.16 of the Revised Code and a period of  
sixty days has elapsed from the date of the determination, and if:

(1) No employee has brought suit pursuant to division (A) of  
this section;

(2) No employee has requested that the director take an  
assignment of a wage claim pursuant to division (B) of this  
section.

The director shall bring any legal action necessary to  
collect any amounts owed to employees and the director. The  
director shall pay over to the affected employees the amounts  
collected to which the affected employees are entitled under  
division (A) of this section. In any action in which the director  
prevails, the employer shall pay the costs and reasonable  
attorney's fees allowed by the court.

(D) Where persons are employed and their rate of wages has  
been determined as provided in section 4115.04 of the Revised  
Code, no person, either for self or any other person, shall  
request, demand, or receive, either before or after the person is  
engaged, that the person so engaged pay back, return, donate,  
contribute, or give any part or all of the person's wages, salary,  
or thing of value, to any person, upon the statement,

representation, or understanding that failure to comply with such 45333  
request or demand will prevent the procuring or retaining of 45334  
employment, and no person shall, directly or indirectly, aid, 45335  
request, or authorize any other person to violate this section. 45336  
This division does not apply to any agent or representative of a 45337  
duly constituted labor organization acting in the collection of 45338  
dues or assessments of such organization. 45339

(E) The director shall enforce sections 4115.03 to 4115.16 of 45340  
the Revised Code. 45341

(F) For the purpose of supplementing existing resources and 45342  
to assist in enforcing division (E) of this section, the director 45343  
may contract with a person registered as a public accountant under 45344  
Chapter 4701. of the Revised Code to conduct an audit of a person, 45345  
firm, corporation, or public authority. 45346

(G) No contractor or subcontractor shall be responsible for 45347  
the payment of the penalties provided in division (A) of this 45348  
section resulting from a violation of sections 4115.03 to 4115.16 45349  
of the Revised Code by its subcontractor, provided that the 45350  
contractor or subcontractor has made a good faith effort to ensure 45351  
that its subcontractor complied with the requirements of sections 45352  
4115.03 to 4115.16 of the Revised Code. 45353

**Sec. 4115.101.** There is hereby created the prevailing wage 45354  
custodial fund, which shall be in the custody of the treasurer of 45355  
state but shall not be part of the state treasury. The director of 45356  
commerce shall deposit to the fund all money paid by employers to 45357  
the director that are held in trust for employees to whom 45358  
prevailing wages are due and owing. The director shall make 45359  
disbursements from the fund in accordance with this chapter to 45360  
employees affected by violations of this chapter. If the director 45361  
determines that any funds in the prevailing wage custodial fund 45362  
are not returnable to employees as required under this section, 45363

then the director shall certify to the treasurer of state the 45364  
amount of the funds that are not returnable. Upon the receipt of a 45365  
certification from the director in accordance with this section, 45366  
the treasurer of state shall transfer the certified amount of the 45367  
funds from the prevailing wage custodial fund to the ~~labor~~ 45368  
industrial compliance operating fund. 45369

**Sec. 4121.04.** (A) There is hereby created the industrial 45370  
commission nominating council consisting of five employer 45371  
representatives, four labor representatives, one representative 45372  
from the Ohio association for justice, and two members of the 45373  
public, each of a different political party, who are appointed by 45374  
the governor. The nominating council shall make recommendations to 45375  
the governor for the appointment of members to the industrial 45376  
commission as provided in section 4121.02 of the Revised Code. 45377

(B) In making the appointments, the governor shall select the 45378  
members representing employees from a list of eight names 45379  
submitted by the Ohio federation of labor, the member representing 45380  
the Ohio association for justice from a list of two names 45381  
submitted by the Ohio association of justice, and the members 45382  
representing employers from a list of ten names submitted jointly 45383  
by the Ohio industry organizations. The governor shall appoint at 45384  
least one member from each of the Ohio industry organizations. Of 45385  
the list submitted by the Ohio industry organizations, two 45386  
individuals from each of the Ohio industry organizations shall be 45387  
included in the list. Terms of office of employer and employee 45388  
representatives are for four years, each term ending on the same 45389  
day as the date of their original appointment. The Ohio federation 45390  
of labor for a vacancy of an employee representative on the 45391  
council, and the Ohio industry organizations, for a vacancy of an 45392  
employer representative on the council, shall submit to the 45393  
governor a list containing two names for appointment and the 45394  
governor shall appoint an individual from the list to fill the 45395

vacancy provided that the list submitted to fill an industry 45396  
representative vacancy shall contain the names of individuals who 45397  
represent the organizations for which a vacancy has occurred. One 45398  
public member shall represent the interests of small business. 45399  
Public members shall serve for a term of two years, each term 45400  
ending on the same day as the date of their original appointment. 45401  
The governor shall fill a vacancy occurring on the nominating 45402  
council for a public member in the same manner as for the original 45403  
appointment but only for the unexpired part of the term. As used 45404  
in this division, "small business" means any manufacturing 45405  
establishment employing five hundred or fewer employees or any 45406  
retail, or other service establishment employing one hundred or 45407  
fewer employees. The representative from the Ohio association for 45408  
justice shall serve for a term of four years, each term ending on 45409  
the twentieth day of October of the appropriate year. The governor 45410  
shall fill a vacancy occurring on the nominating council for the 45411  
representative from the Ohio association for justice in the same 45412  
manner as the original appointment. In the event that an 45413  
appointment to the council does not conform to this division, such 45414  
organizations may challenge the appointment pursuant to division 45415  
(E) of this section, provided that the industry organizations only 45416  
may challenge the appointment of an industry representative, and 45417  
further provided that the labor organization only may challenge 45418  
the appointment of a labor representative. 45419

(C) The nominating council annually shall meet and elect such 45420  
officers as it determines appropriate and shall meet at such other 45421  
times as it determines appropriate in order to make 45422  
recommendations to the governor for the appointment of industrial 45423  
commission members pursuant to section 4121.02 of the Revised 45424  
Code. The nominating council may conduct a meeting by interactive 45425  
video teleconference if provisions are made for public attendance 45426  
at any location involved in the teleconference. Notwithstanding 45427  
division (C) of section 121.22 of the Revised Code, all members of 45428

the nominating council, whether attending a meeting of the 45429  
nominating council in person or by teleconference, are entitled to 45430  
full and complete voting privileges on all nominating council 45431  
matters. 45432

(D) Members of the nominating council shall be paid fifty 45433  
dollars per day and their actual and necessary expenses while 45434  
engaged in the performance of their duties as members of the 45435  
nominating council, which the industrial commission shall pay from 45436  
funds which the industrial commission uses to pay its operating 45437  
expenses. 45438

(E) An association generally recognized as representing the 45439  
interests of labor or industry may file, within fifteen days after 45440  
the governor's appointment of a member, a challenge in the common 45441  
pleas court of Franklin county asserting that a representative 45442  
named to represent its interests is not representative of the 45443  
interests the appointee has been appointed to represent. An 45444  
appointee whose appointment has been challenged shall not receive 45445  
any pay nor serve on the nominating council until the court, 45446  
acting without a jury and following the expedited timetable 45447  
provided for hearing on restraining orders in Civil Rule 65, makes 45448  
a determination that the appointee is a true and qualified 45449  
representative of the group for which the appointee is selected 45450  
and possesses all of the qualifications. 45451

A challenged appointee may request the attorney general to 45452  
represent the appointee in an action brought under this division 45453  
and the attorney general shall provide the appointee with 45454  
competent representation without charge. 45455

(F) As used in this section, "Ohio industry organizations" 45456  
means all of the following organizations: 45457

(1) The Ohio self-insurers' association; 45458

(2) The Ohio manufacturers' association; 45459

- (3) The Ohio council of retail merchants; 45460
- (4) The Ohio chamber of commerce; 45461
- (5) The national federation of independent business. 45462

**Sec. 4121.123.** (A) There is hereby created the workers' 45463  
compensation board of directors nominating committee consisting of 45464  
the following: 45465

(1) Three individuals who are members of affiliated employee 45466  
organizations of the Ohio chapter of the American federation of 45467  
labor-congress of industrial organizations, who are selected by 45468  
the Ohio chapter of the American federation of labor-congress of 45469  
industrial organizations and who, on account of their previous 45470  
vocation, employment, or affiliations, can be classed as 45471  
representative of employees who are members of an employee 45472  
organization. Terms of office shall be for one year, with each 45473  
term ending on the same day of the same month as did the term that 45474  
it succeeds. 45475

(2) Two individuals who, on account of their previous 45476  
vocation, employment, or affiliations, can be classed as 45477  
representative of employees, one of whom shall be an injured 45478  
worker with a valid, open, and active workers' compensation claim 45479  
and at least one of these two representatives also shall represent 45480  
employees who are not members of an employee organization. The 45481  
president of the senate and the speaker of the house of 45482  
representatives each shall appoint annually one of these members. 45483  
The member who is an injured worker shall serve for a full term 45484  
even if the member's workers' compensation claim is invalidated, 45485  
closed, or inactivated during the member's term. 45486

(3) The chief executive officer, or the equivalent of the 45487  
chief executive officer, of the Ohio chamber of commerce, the Ohio 45488  
manufacturers' association, the Ohio self-insurers' association, 45489

the Ohio council of retail merchants, the national federation of 45490  
independent business, and the Ohio farm bureau; 45491

(4) The director of development; 45492

(5) The president of the Ohio township association and the 45493  
president of the Ohio county commissioners association, or, ~~in~~ if 45494  
any of the following circumstances apply: 45495

(a) In the event of a vacancy in the either presidency, a 45496  
designee appointed by the governing body authorized to appoint the 45497  
president. A designee so appointed shall serve on the nominating 45498  
committee only until the vacancy in the presidency is filled. 45499

(b) In the event that the president of the Ohio township 45500  
association is unavailable, a designee selected by the president; 45501

(c) In the event that the president of the Ohio county 45502  
commissioners association is unavailable, a designee selected by 45503  
the president. 45504

(B) Each member appointed under divisions (A)(1) and (2) of 45505  
this section shall hold office from the date of the member's 45506  
appointment until the end of the term for which the member was 45507  
appointed. Such members may be reappointed. Vacancies shall be 45508  
filled in the manner provided for original appointments. Any such 45509  
member appointed to fill a vacancy occurring prior to the 45510  
expiration date of the term for which the member's predecessor was 45511  
appointed shall hold office as a member for the remainder of that 45512  
term. Such a member shall continue in office subsequent to the 45513  
expiration date of the member's term until the member's successor 45514  
takes office or until a period of sixty days has elapsed, 45515  
whichever occurs first. 45516

(C) The nominating committee shall meet at the request of the 45517  
governor or as the nominating committee determines appropriate in 45518  
order to make recommendations to the governor for the appointment 45519  
of members of the bureau of workers' compensation board of 45520

directors under section 4121.12 of the Revised Code. 45521

(D) The director of development shall serve as chairperson of 45522  
the nominating committee and have no voting rights on matters 45523  
coming before the nominating committee, except that the director 45524  
may vote in the event of a tie vote of the nominating committee. 45525  
Annually, the nominating committee shall select a secretary from 45526  
among its members. The nominating committee may adopt by-laws 45527  
governing its proceedings. 45528

(E) Members of the nominating committee shall be paid their 45529  
reasonable and necessary expenses pursuant to section 126.31 of 45530  
the Revised Code while engaged in the performance of their duties 45531  
as members of the nominating committee. 45532

(F) The nominating committee shall: 45533

(1) Review and evaluate possible appointees for the board. In 45534  
reviewing and evaluating possible appointees for the board, the 45535  
nominating committee may accept comments from, cooperate with, and 45536  
request information from any person. 45537

(2) Make recommendations to the governor for the appointment 45538  
of members to the board as provided in division (C) of section 45539  
4121.12 of the Revised Code. 45540

(G) The nominating committee may make recommendations to the 45541  
general assembly concerning changes in legislation that will 45542  
assist the nominating committee in the performance of its duties. 45543

**Sec. 4121.30.** (A) All rules governing the operating procedure 45544  
of the bureau of workers' compensation and the industrial 45545  
commission shall be adopted in accordance with Chapter 119. of the 45546  
Revised Code, except that determinations of the bureau, district 45547  
hearing officers, staff hearing officers, and the commission, with 45548  
respect to an individual employee's claim to participate in the 45549  
state insurance fund are governed only by Chapter 4123. of the 45550

Revised Code. 45551

The administrator of workers' compensation and commission 45552  
shall proceed jointly, in accordance with Chapter 119. of the 45553  
Revised Code, including a joint hearing, to adopt joint rules 45554  
governing the operating procedures of the bureau and commission. 45555  
~~The bureau shall publish the joint rules in a single publication.~~ 45556

(B) Upon submission to the bureau or the commission of a 45557  
petition containing not less than fifteen hundred signatures of 45558  
adult residents of the state, any individual may propose a rule 45559  
for adoption, amendment, or rescission by the bureau or the 45560  
commission. If, upon investigation, the bureau or commission is 45561  
satisfied that the signatures upon the petition are valid, it 45562  
shall proceed, in accordance with Chapter 119. of the Revised 45563  
Code, to consider adoption, amendment, or rescission of the rule. 45564

(C) The administrator shall ~~publish~~ make available 45565  
electronically all rules adopted by the bureau and the commission 45566  
~~in a single publication~~ and shall make available in a timely 45567  
manner ~~and at cost copies of~~ all rules adopted by the bureau and 45568  
the commission that are currently in force. ~~For that purpose, the~~ 45569  
~~administrator shall maintain a mailing list of all persons~~ 45570  
~~requesting copies of the rules.~~ 45571

(D) The rule-making authority granted to the administrator 45572  
under this section does not limit the commission's rule-making 45573  
authority relative to its overall adjudicatory policy-making and 45574  
management duties under this chapter and Chapters 4123., 4127., 45575  
and 4131. of the Revised Code. The administrator shall not 45576  
disregard any rule adopted by the commission, provided that the 45577  
rule is within the commission's rule-making authority. 45578

**Sec. 4123.20.** The administrator of workers' compensation 45579  
shall ~~cause to be printed, in proper form for distribution~~ make 45580  
available electronically to the public, its classifications, 45581

rates, rules, and rules of procedure, and shall furnish the same 45582  
to any person upon ~~application therefor, and the fact that the~~ 45583  
~~classifications, rates, rules, and rules of procedure are printed~~ 45584  
~~ready for distribution to all who apply for the same is a~~ 45585  
~~sufficient publication of the same as required by this chapter~~ 45586  
request. 45587

**Sec. 4123.35.** (A) Except as provided in this section, every 45588  
employer mentioned in division (B)(2) of section 4123.01 of the 45589  
Revised Code, and every publicly owned utility shall pay 45590  
semiannually in the months of January and July into the state 45591  
insurance fund the amount of annual premium the administrator of 45592  
workers' compensation fixes for the employment or occupation of 45593  
the employer, the amount of which premium to be paid by each 45594  
employer to be determined by the classifications, rules, and rates 45595  
made and published by the administrator. The employer shall pay 45596  
semiannually a further sum of money into the state insurance fund 45597  
as may be ascertained to be due from the employer by applying the 45598  
rules of the administrator, and a receipt or certificate 45599  
certifying that payment has been made, along with a written notice 45600  
as is required in section 4123.54 of the Revised Code, shall be 45601  
mailed immediately to the employer by the bureau of workers' 45602  
compensation. The receipt or certificate is prima-facie evidence 45603  
of the payment of the premium, and the proper posting of the 45604  
notice constitutes the employer's compliance with the notice 45605  
requirement mandated in section 4123.54 of the Revised Code. 45606

The bureau of workers' compensation shall verify with the 45607  
secretary of state the existence of all corporations and 45608  
organizations making application for workers' compensation 45609  
coverage and shall require every such application to include the 45610  
employer's federal identification number. 45611

An employer as defined in division (B)(2) of section 4123.01 45612

of the Revised Code who has contracted with a subcontractor is 45613  
liable for the unpaid premium due from any subcontractor with 45614  
respect to that part of the payroll of the subcontractor that is 45615  
for work performed pursuant to the contract with the employer. 45616

Division (A) of this section providing for the payment of 45617  
premiums semiannually does not apply to any employer who was a 45618  
subscriber to the state insurance fund prior to January 1, 1914, 45619  
or who may first become a subscriber to the fund in any month 45620  
other than January or July. Instead, the semiannual premiums shall 45621  
be paid by those employers from time to time upon the expiration 45622  
of the respective periods for which payments into the fund have 45623  
been made by them. 45624

The administrator shall adopt rules to permit employers to 45625  
make periodic payments of the semiannual premium due under this 45626  
division. The rules shall include provisions for the assessment of 45627  
interest charges, where appropriate, and for the assessment of 45628  
penalties when an employer fails to make timely premium payments. 45629  
An employer who timely pays the amounts due under this division is 45630  
entitled to all of the benefits and protections of this chapter. 45631  
Upon receipt of payment, the bureau immediately shall mail a 45632  
receipt or certificate to the employer certifying that payment has 45633  
been made, which receipt is prima-facie evidence of payment. 45634  
Workers' compensation coverage under this chapter continues 45635  
uninterrupted upon timely receipt of payment under this division. 45636

Every public employer, except public employers that are 45637  
self-insuring employers under this section, shall comply with 45638  
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 45639  
regard to the contribution of moneys to the public insurance fund. 45640

(B) Employers who will abide by the rules of the 45641  
administrator and who may be of sufficient financial ability to 45642  
render certain the payment of compensation to injured employees or 45643  
the dependents of killed employees, and the furnishing of medical, 45644

surgical, nursing, and hospital attention and services and 45645  
medicines, and funeral expenses, equal to or greater than is 45646  
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 45647  
to 4123.67 of the Revised Code, and who do not desire to insure 45648  
the payment thereof or indemnify themselves against loss sustained 45649  
by the direct payment thereof, upon a finding of such facts by the 45650  
administrator, may be granted the privilege to pay individually 45651  
compensation, and furnish medical, surgical, nursing, and hospital 45652  
services and attention and funeral expenses directly to injured 45653  
employees or the dependents of killed employees, thereby being 45654  
granted status as a self-insuring employer. The administrator may 45655  
charge employers who apply for the status as a self-insuring 45656  
employer a reasonable application fee to cover the bureau's costs 45657  
in connection with processing and making a determination with 45658  
respect to an application. 45659

All employers granted status as self-insuring employers shall 45660  
demonstrate sufficient financial and administrative ability to 45661  
assure that all obligations under this section are promptly met. 45662  
The administrator shall deny the privilege where the employer is 45663  
unable to demonstrate the employer's ability to promptly meet all 45664  
the obligations imposed on the employer by this section. 45665

(1) The administrator shall consider, but is not limited to, 45666  
the following factors, where applicable, in determining the 45667  
employer's ability to meet all of the obligations imposed on the 45668  
employer by this section: 45669

(a) The employer employs a minimum of five hundred employees 45670  
in this state; 45671

(b) The employer has operated in this state for a minimum of 45672  
two years, provided that an employer who has purchased, acquired, 45673  
or otherwise succeeded to the operation of a business, or any part 45674  
thereof, situated in this state that has operated for at least two 45675  
years in this state, also shall qualify; 45676

(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules; 45677  
45678  
45679

(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly; 45680  
45681  
45682

(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years. 45683  
45684  
45685  
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(f) The employer's organizational plan for the administration of the workers' compensation law; 45688  
45689

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and 45690  
45691  
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45693

(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state. 45694  
45695  
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The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the requirement of division (B)(1)(e) of this section. Such rules may require additional security of that employer pursuant to division 45700  
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45702  
45703  
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(E) of section 4123.351 of the Revised Code. 45708

The administrator shall not grant the status of self-insuring 45709  
employer to the state, except that the administrator may grant the 45710  
status of self-insuring employer to a state institution of higher 45711  
education, ~~excluding~~ including its hospitals, that meets the 45712  
requirements of division (B)(2) of this section. 45713

(2) When considering the application of a public employer, 45714  
except for a board of county commissioners described in division 45715  
(G) of section 4123.01 of the Revised Code, a board of a county 45716  
hospital, or a publicly owned utility, the administrator shall 45717  
verify that the public employer satisfies all of the following 45718  
requirements as the requirements apply to that public employer: 45719

(a) For the two-year period preceding application under this 45720  
section, the public employer has maintained an unvoted debt 45721  
capacity equal to at least two times the amount of the current 45722  
annual premium established by the administrator under this chapter 45723  
for that public employer for the year immediately preceding the 45724  
year in which the public employer makes application under this 45725  
section. 45726

(b) For each of the two fiscal years preceding application 45727  
under this section, the unreserved and undesignated year-end fund 45728  
balance in the public employer's general fund is equal to at least 45729  
five per cent of the public employer's general fund revenues for 45730  
the fiscal year computed in accordance with generally accepted 45731  
accounting principles. 45732

(c) For the five-year period preceding application under this 45733  
section, the public employer, to the extent applicable, has 45734  
complied fully with the continuing disclosure requirements 45735  
established in rules adopted by the United States securities and 45736  
exchange commission under 17 C.F.R. 240.15c 2-12. 45737

(d) For the five-year period preceding application under this 45738

section, the public employer has not had its local government fund 45739  
distribution withheld on account of the public employer being 45740  
indebted or otherwise obligated to the state. 45741

(e) For the five-year period preceding application under this 45742  
section, the public employer has not been under a fiscal watch or 45743  
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 45744  
of the Revised Code. 45745

(f) For the public employer's fiscal year preceding 45746  
application under this section, the public employer has obtained 45747  
an annual financial audit as required under section 117.10 of the 45748  
Revised Code, which has been released by the auditor of state 45749  
within seven months after the end of the public employer's fiscal 45750  
year. 45751

(g) On the date of application, the public employer holds a 45752  
debt rating of Aa3 or higher according to Moody's investors 45753  
service, inc., or a comparable rating by an independent rating 45754  
agency similar to Moody's investors service, inc. 45755

(h) The public employer agrees to generate an annual 45756  
accumulating book reserve in its financial statements reflecting 45757  
an actuarially generated reserve adequate to pay projected claims 45758  
under this chapter for the applicable period of time, as 45759  
determined by the administrator. 45760

(i) For a public employer that is a hospital, the public 45761  
employer shall submit audited financial statements showing the 45762  
hospital's overall liquidity characteristics, and the 45763  
administrator shall determine, on an individual basis, whether the 45764  
public employer satisfies liquidity standards equivalent to the 45765  
liquidity standards of other public employers. 45766

(j) Any additional criteria that the administrator adopts by 45767  
rule pursuant to division (E) of this section. 45768

The administrator may adopt rules establishing the criteria 45769

that a public employer shall satisfy in order for the 45770  
administrator to waive any of the requirements listed in divisions 45771  
(B)(2)(a) to (j) of this section. The rules may require additional 45772  
security from that employer pursuant to division (E) of section 45773  
4123.351 of the Revised Code. The administrator shall not waive 45774  
any of the requirements listed in divisions (B)(2)(a) to (j) of 45775  
this section for a public employer who does not satisfy the 45776  
criteria established in the rules the administrator adopts. 45777

(C) A board of county commissioners described in division (G) 45778  
of section 4123.01 of the Revised Code, as an employer, that will 45779  
abide by the rules of the administrator and that may be of 45780  
sufficient financial ability to render certain the payment of 45781  
compensation to injured employees or the dependents of killed 45782  
employees, and the furnishing of medical, surgical, nursing, and 45783  
hospital attention and services and medicines, and funeral 45784  
expenses, equal to or greater than is provided for in sections 45785  
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 45786  
Code, and that does not desire to insure the payment thereof or 45787  
indemnify itself against loss sustained by the direct payment 45788  
thereof, upon a finding of such facts by the administrator, may be 45789  
granted the privilege to pay individually compensation, and 45790  
furnish medical, surgical, nursing, and hospital services and 45791  
attention and funeral expenses directly to injured employees or 45792  
the dependents of killed employees, thereby being granted status 45793  
as a self-insuring employer. The administrator may charge a board 45794  
of county commissioners described in division (G) of section 45795  
4123.01 of the Revised Code that applies for the status as a 45796  
self-insuring employer a reasonable application fee to cover the 45797  
bureau's costs in connection with processing and making a 45798  
determination with respect to an application. All employers 45799  
granted such status shall demonstrate sufficient financial and 45800  
administrative ability to assure that all obligations under this 45801  
section are promptly met. The administrator shall deny the 45802

privilege where the employer is unable to demonstrate the 45803  
employer's ability to promptly meet all the obligations imposed on 45804  
the employer by this section. The administrator shall consider, 45805  
but is not limited to, the following factors, where applicable, in 45806  
determining the employer's ability to meet all of the obligations 45807  
imposed on the board as an employer by this section: 45808

(1) The board as an employer employs a minimum of five 45809  
hundred employees in this state; 45810

(2) The board has operated in this state for a minimum of two 45811  
years; 45812

(3) Where the board previously contributed to the state 45813  
insurance fund or is a successor employer as defined by bureau 45814  
rules, the amount of the buyout, as defined by bureau rules; 45815

(4) The sufficiency of the board's assets located in this 45816  
state to insure the board's solvency in paying compensation 45817  
directly; 45818

(5) The financial records, documents, and data, certified by 45819  
a certified public accountant, necessary to provide the board's 45820  
full financial disclosure. The records, documents, and data 45821  
include, but are not limited to, balance sheets and profit and 45822  
loss history for the current year and previous four years. 45823

(6) The board's organizational plan for the administration of 45824  
the workers' compensation law; 45825

(7) The board's proposed plan to inform employees of the 45826  
proposed self-insurance, the procedures the board will follow as a 45827  
self-insuring employer, and the employees' rights to compensation 45828  
and benefits; 45829

(8) The board has either an account in a financial 45830  
institution in this state, or if the board maintains an account 45831  
with a financial institution outside this state, ensures that 45832

workers' compensation checks are drawn from the same account as 45833  
payroll checks or the board clearly indicates that payment will be 45834  
honored by a financial institution in this state; 45835

(9) The board shall provide the administrator a surety bond 45836  
in an amount equal to one hundred twenty-five per cent of the 45837  
projected losses as determined by the administrator. 45838

(D) The administrator shall require a surety bond from all 45839  
self-insuring employers, issued pursuant to section 4123.351 of 45840  
the Revised Code, that is sufficient to compel, or secure to 45841  
injured employees, or to the dependents of employees killed, the 45842  
payment of compensation and expenses, which shall in no event be 45843  
less than that paid or furnished out of the state insurance fund 45844  
in similar cases to injured employees or to dependents of killed 45845  
employees whose employers contribute to the fund, except when an 45846  
employee of the employer, who has suffered the loss of a hand, 45847  
arm, foot, leg, or eye prior to the injury for which compensation 45848  
is to be paid, and thereafter suffers the loss of any other of the 45849  
members as the result of any injury sustained in the course of and 45850  
arising out of the employee's employment, the compensation to be 45851  
paid by the self-insuring employer is limited to the disability 45852  
suffered in the subsequent injury, additional compensation, if 45853  
any, to be paid by the bureau out of the surplus created by 45854  
section 4123.34 of the Revised Code. 45855

(E) In addition to the requirements of this section, the 45856  
administrator shall make and publish rules governing the manner of 45857  
making application and the nature and extent of the proof required 45858  
to justify a finding of fact by the administrator as to granting 45859  
the status of a self-insuring employer, which rules shall be 45860  
general in their application, one of which rules shall provide 45861  
that all self-insuring employers shall pay into the state 45862  
insurance fund such amounts as are required to be credited to the 45863  
surplus fund in division (B) of section 4123.34 of the Revised 45864

Code. The administrator may adopt rules establishing requirements 45865  
in addition to the requirements described in division (B)(2) of 45866  
this section that a public employer shall meet in order to qualify 45867  
for self-insuring status. 45868

Employers shall secure directly from the bureau central 45869  
offices application forms upon which the bureau shall stamp a 45870  
designating number. Prior to submission of an application, an 45871  
employer shall make available to the bureau, and the bureau shall 45872  
review, the information described in division (B)(1) of this 45873  
section, and public employers shall make available, and the bureau 45874  
shall review, the information necessary to verify whether the 45875  
public employer meets the requirements listed in division (B)(2) 45876  
of this section. An employer shall file the completed application 45877  
forms with an application fee, which shall cover the costs of 45878  
processing the application, as established by the administrator, 45879  
by rule, with the bureau at least ninety days prior to the 45880  
effective date of the employer's new status as a self-insuring 45881  
employer. The application form is not deemed complete until all 45882  
the required information is attached thereto. The bureau shall 45883  
only accept applications that contain the required information. 45884

(F) The bureau shall review completed applications within a 45885  
reasonable time. If the bureau determines to grant an employer the 45886  
status as a self-insuring employer, the bureau shall issue a 45887  
statement, containing its findings of fact, that is prepared by 45888  
the bureau and signed by the administrator. If the bureau 45889  
determines not to grant the status as a self-insuring employer, 45890  
the bureau shall notify the employer of the determination and 45891  
require the employer to continue to pay its full premium into the 45892  
state insurance fund. The administrator also shall adopt rules 45893  
establishing a minimum level of performance as a criterion for 45894  
granting and maintaining the status as a self-insuring employer 45895  
and fixing time limits beyond which failure of the self-insuring 45896

employer to provide for the necessary medical examinations and 45897  
evaluations may not delay a decision on a claim. 45898

(G) The administrator shall adopt rules setting forth 45899  
procedures for auditing the program of self-insuring employers. 45900  
The bureau shall conduct the audit upon a random basis or whenever 45901  
the bureau has grounds for believing that a self-insuring employer 45902  
is not in full compliance with bureau rules or this chapter. 45903

The administrator shall monitor the programs conducted by 45904  
self-insuring employers, to ensure compliance with bureau 45905  
requirements and for that purpose, shall develop and issue to 45906  
self-insuring employers standardized forms for use by the 45907  
self-insuring employer in all aspects of the self-insuring 45908  
employers' direct compensation program and for reporting of 45909  
information to the bureau. 45910

The bureau shall receive and transmit to the self-insuring 45911  
employer all complaints concerning any self-insuring employer. In 45912  
the case of a complaint against a self-insuring employer, the 45913  
administrator shall handle the complaint through the 45914  
self-insurance division of the bureau. The bureau shall maintain a 45915  
file by employer of all complaints received that relate to the 45916  
employer. The bureau shall evaluate each complaint and take 45917  
appropriate action. 45918

The administrator shall adopt as a rule a prohibition against 45919  
any self-insuring employer from harassing, dismissing, or 45920  
otherwise disciplining any employee making a complaint, which rule 45921  
shall provide for a financial penalty to be levied by the 45922  
administrator payable by the offending self-insuring employer. 45923

(H) For the purpose of making determinations as to whether to 45924  
grant status as a self-insuring employer, the administrator may 45925  
subscribe to and pay for a credit reporting service that offers 45926  
financial and other business information about individual 45927

employers. The costs in connection with the bureau's subscription 45928  
or individual reports from the service about an applicant may be 45929  
included in the application fee charged employers under this 45930  
section. 45931

(I) The administrator, notwithstanding other provisions of 45932  
this chapter, may permit a self-insuring employer to resume 45933  
payment of premiums to the state insurance fund with appropriate 45934  
credit modifications to the employer's basic premium rate as such 45935  
rate is determined pursuant to section 4123.29 of the Revised 45936  
Code. 45937

(J) On the first day of July of each year, the administrator 45938  
shall calculate separately each self-insuring employer's 45939  
assessments for the safety and hygiene fund, administrative costs 45940  
pursuant to section 4123.342 of the Revised Code, and for the 45941  
portion of the surplus fund under division (B) of section 4123.34 45942  
of the Revised Code that is not used for handicapped 45943  
reimbursement, on the basis of the paid compensation attributable 45944  
to the individual self-insuring employer according to the 45945  
following calculation: 45946

(1) The total assessment against all self-insuring employers 45947  
as a class for each fund and for the administrative costs for the 45948  
year that the assessment is being made, as determined by the 45949  
administrator, divided by the total amount of paid compensation 45950  
for the previous calendar year attributable to all amenable 45951  
self-insuring employers; 45952

(2) Multiply the quotient in division (J)(1) of this section 45953  
by the total amount of paid compensation for the previous calendar 45954  
year that is attributable to the individual self-insuring employer 45955  
for whom the assessment is being determined. Each self-insuring 45956  
employer shall pay the assessment that results from this 45957  
calculation, unless the assessment resulting from this calculation 45958  
falls below a minimum assessment, which minimum assessment the 45959

administrator shall determine on the first day of July of each 45960  
year with the advice and consent of the bureau of workers' 45961  
compensation board of directors, in which event, the self-insuring 45962  
employer shall pay the minimum assessment. 45963

In determining the total amount due for the total assessment 45964  
against all self-insuring employers as a class for each fund and 45965  
the administrative assessment, the administrator shall reduce 45966  
proportionately the total for each fund and assessment by the 45967  
amount of money in the self-insurance assessment fund as of the 45968  
date of the computation of the assessment. 45969

The administrator shall calculate the assessment for the 45970  
portion of the surplus fund under division (B) of section 4123.34 45971  
of the Revised Code that is used for handicapped reimbursement in 45972  
the same manner as set forth in divisions (J)(1) and (2) of this 45973  
section except that the administrator shall calculate the total 45974  
assessment for this portion of the surplus fund only on the basis 45975  
of those self-insuring employers that retain participation in the 45976  
handicapped reimbursement program and the individual self-insuring 45977  
employer's proportion of paid compensation shall be calculated 45978  
only for those self-insuring employers who retain participation in 45979  
the handicapped reimbursement program. The administrator, as the 45980  
administrator determines appropriate, may determine the total 45981  
assessment for the handicapped portion of the surplus fund in 45982  
accordance with sound actuarial principles. 45983

The administrator shall calculate the assessment for the 45984  
portion of the surplus fund under division (B) of section 4123.34 45985  
of the Revised Code that under division (D) of section 4121.66 of 45986  
the Revised Code is used for rehabilitation costs in the same 45987  
manner as set forth in divisions (J)(1) and (2) of this section, 45988  
except that the administrator shall calculate the total assessment 45989  
for this portion of the surplus fund only on the basis of those 45990  
self-insuring employers who have not made the election to make 45991

payments directly under division (D) of section 4121.66 of the Revised Code and an individual self-insuring employer's proportion of paid compensation only for those self-insuring employers who have not made that election.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit 46024  
form subject to the penalty for perjury, to the bureau the amount 46025  
of the self-insuring employer's paid compensation for the previous 46026  
calendar year. In reporting paid compensation paid for the 46027  
previous year, a self-insuring employer shall exclude from the 46028  
total amount of paid compensation any reimbursement the 46029  
self-insuring employer receives in the previous calendar year from 46030  
the surplus fund pursuant to section 4123.512 of the Revised Code 46031  
for any paid compensation. The self-insuring employer also shall 46032  
exclude from the paid compensation reported any amount recovered 46033  
under section 4123.931 of the Revised Code and any amount that is 46034  
determined not to have been payable to or on behalf of a claimant 46035  
in any final administrative or judicial proceeding. The 46036  
self-insuring employer shall exclude such amounts from the paid 46037  
compensation reported in the reporting period subsequent to the 46038  
date the determination is made. The administrator shall adopt 46039  
rules, in accordance with Chapter 119. of the Revised Code, that 46040  
provide for all of the following: 46041

(1) Establishing the date by which self-insuring employers 46042  
must submit such information and the amount of the assessments 46043  
provided for in division (J) of this section for employers who 46044  
have been granted self-insuring status within the last calendar 46045  
year; 46046

(2) If an employer fails to pay the assessment when due, the 46047  
administrator may add a late fee penalty of not more than five 46048  
hundred dollars to the assessment plus an additional penalty 46049  
amount as follows: 46050

(a) For an assessment from sixty-one to ninety days past due, 46051  
the prime interest rate, multiplied by the assessment due; 46052

(b) For an assessment from ninety-one to one hundred twenty 46053  
days past due, the prime interest rate plus two per cent, 46054  
multiplied by the assessment due; 46055

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due; 46056  
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(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due; 46059  
46060  
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(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due; 46062  
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46064

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due. 46065  
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(3) An employer may appeal a late fee penalty and penalty assessment to the administrator. 46069  
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For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code. 46071  
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The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section. 46076  
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(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded 46080  
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by the self-insuring employer, and all amounts paid by a 46087  
self-insuring employer for a violation of a specific safety 46088  
standard pursuant to Section 35 of Article II, Ohio Constitution 46089  
and section 4121.47 of the Revised Code. 46090

(N) Should any section of this chapter or Chapter 4121. of 46091  
the Revised Code providing for self-insuring employers' 46092  
assessments based upon compensation paid be declared 46093  
unconstitutional by a final decision of any court, then that 46094  
section of the Revised Code declared unconstitutional shall revert 46095  
back to the section in existence prior to November 3, 1989, 46096  
providing for assessments based upon payroll. 46097

(O) The administrator may grant a self-insuring employer the 46098  
privilege to self-insure a construction project entered into by 46099  
the self-insuring employer that is scheduled for completion within 46100  
six years after the date the project begins, and the total cost of 46101  
which is estimated to exceed one hundred million dollars or, for 46102  
employers described in division (R) of this section, if the 46103  
construction project is estimated to exceed twenty-five million 46104  
dollars. The administrator may waive such cost and time criteria 46105  
and grant a self-insuring employer the privilege to self-insure a 46106  
construction project regardless of the time needed to complete the 46107  
construction project and provided that the cost of the 46108  
construction project is estimated to exceed fifty million dollars. 46109  
A self-insuring employer who desires to self-insure a construction 46110  
project shall submit to the administrator an application listing 46111  
the dates the construction project is scheduled to begin and end, 46112  
the estimated cost of the construction project, the contractors 46113  
and subcontractors whose employees are to be self-insured by the 46114  
self-insuring employer, the provisions of a safety program that is 46115  
specifically designed for the construction project, and a 46116  
statement as to whether a collective bargaining agreement 46117  
governing the rights, duties, and obligations of each of the 46118

parties to the agreement with respect to the construction project 46119  
exists between the self-insuring employer and a labor 46120  
organization. 46121

A self-insuring employer may apply to self-insure the 46122  
employees of either of the following: 46123

(1) All contractors and subcontractors who perform labor or 46124  
work or provide materials for the construction project; 46125

(2) All contractors and, at the administrator's discretion, a 46126  
substantial number of all the subcontractors who perform labor or 46127  
work or provide materials for the construction project. 46128

Upon approval of the application, the administrator shall 46129  
mail a certificate granting the privilege to self-insure the 46130  
construction project to the self-insuring employer. The 46131  
certificate shall contain the name of the self-insuring employer 46132  
and the name, address, and telephone number of the self-insuring 46133  
employer's representatives who are responsible for administering 46134  
workers' compensation claims for the construction project. The 46135  
self-insuring employer shall post the certificate in a conspicuous 46136  
place at the site of the construction project. 46137

The administrator shall maintain a record of the contractors 46138  
and subcontractors whose employees are covered under the 46139  
certificate issued to the self-insured employer. A self-insuring 46140  
employer immediately shall notify the administrator when any 46141  
contractor or subcontractor is added or eliminated from inclusion 46142  
under the certificate. 46143

Upon approval of the application, the self-insuring employer 46144  
is responsible for the administration and payment of all claims 46145  
under this chapter and Chapter 4121. of the Revised Code for the 46146  
employees of the contractor and subcontractors covered under the 46147  
certificate who receive injuries or are killed in the course of 46148  
and arising out of employment on the construction project, or who 46149

contract an occupational disease in the course of employment on 46150  
the construction project. For purposes of this chapter and Chapter 46151  
4121. of the Revised Code, a claim that is administered and paid 46152  
in accordance with this division is considered a claim against the 46153  
self-insuring employer listed in the certificate. A contractor or 46154  
subcontractor included under the certificate shall report to the 46155  
self-insuring employer listed in the certificate, all claims that 46156  
arise under this chapter and Chapter 4121. of the Revised Code in 46157  
connection with the construction project for which the certificate 46158  
is issued. 46159

A self-insuring employer who complies with this division is 46160  
entitled to the protections provided under this chapter and 46161  
Chapter 4121. of the Revised Code with respect to the employees of 46162  
the contractors and subcontractors covered under a certificate 46163  
issued under this division for death or injuries that arise out 46164  
of, or death, injuries, or occupational diseases that arise in the 46165  
course of, those employees' employment on that construction 46166  
project, as if the employees were employees of the self-insuring 46167  
employer, provided that the self-insuring employer also complies 46168  
with this section. No employee of the contractors and 46169  
subcontractors covered under a certificate issued under this 46170  
division shall be considered the employee of the self-insuring 46171  
employer listed in that certificate for any purposes other than 46172  
this chapter and Chapter 4121. of the Revised Code. Nothing in 46173  
this division gives a self-insuring employer authority to control 46174  
the means, manner, or method of employment of the employees of the 46175  
contractors and subcontractors covered under a certificate issued 46176  
under this division. 46177

The contractors and subcontractors included under a 46178  
certificate issued under this division are entitled to the 46179  
protections provided under this chapter and Chapter 4121. of the 46180  
Revised Code with respect to the contractor's or subcontractor's 46181

employees who are employed on the construction project which is 46182  
the subject of the certificate, for death or injuries that arise 46183  
out of, or death, injuries, or occupational diseases that arise in 46184  
the course of, those employees' employment on that construction 46185  
project. 46186

The contractors and subcontractors included under a 46187  
certificate issued under this division shall identify in their 46188  
payroll records the employees who are considered the employees of 46189  
the self-insuring employer listed in that certificate for purposes 46190  
of this chapter and Chapter 4121. of the Revised Code, and the 46191  
amount that those employees earned for employment on the 46192  
construction project that is the subject of that certificate. 46193  
Notwithstanding any provision to the contrary under this chapter 46194  
and Chapter 4121. of the Revised Code, the administrator shall 46195  
exclude the payroll that is reported for employees who are 46196  
considered the employees of the self-insuring employer listed in 46197  
that certificate, and that the employees earned for employment on 46198  
the construction project that is the subject of that certificate, 46199  
when determining those contractors' or subcontractors' premiums or 46200  
assessments required under this chapter and Chapter 4121. of the 46201  
Revised Code. A self-insuring employer issued a certificate under 46202  
this division shall include in the amount of paid compensation it 46203  
reports pursuant to division (L) of this section, the amount of 46204  
paid compensation the self-insuring employer paid pursuant to this 46205  
division for the previous calendar year. 46206

Nothing in this division shall be construed as altering the 46207  
rights of employees under this chapter and Chapter 4121. of the 46208  
Revised Code as those rights existed prior to September 17, 1996. 46209  
Nothing in this division shall be construed as altering the rights 46210  
devolved under sections 2305.31 and 4123.82 of the Revised Code as 46211  
those rights existed prior to September 17, 1996. 46212

As used in this division, "privilege to self-insure a 46213

construction project" means privilege to pay individually 46214  
compensation, and to furnish medical, surgical, nursing, and 46215  
hospital services and attention and funeral expenses directly to 46216  
injured employees or the dependents of killed employees. 46217

(P) A self-insuring employer whose application is granted 46218  
under division (O) of this section shall designate a safety 46219  
professional to be responsible for the administration and 46220  
enforcement of the safety program that is specifically designed 46221  
for the construction project that is the subject of the 46222  
application. 46223

A self-insuring employer whose application is granted under 46224  
division (O) of this section shall employ an ombudsperson for the 46225  
construction project that is the subject of the application. The 46226  
ombudsperson shall have experience in workers' compensation or the 46227  
construction industry, or both. The ombudsperson shall perform all 46228  
of the following duties: 46229

(1) Communicate with and provide information to employees who 46230  
are injured in the course of, or whose injury arises out of 46231  
employment on the construction project, or who contract an 46232  
occupational disease in the course of employment on the 46233  
construction project; 46234

(2) Investigate the status of a claim upon the request of an 46235  
employee to do so; 46236

(3) Provide information to claimants, third party 46237  
administrators, employers, and other persons to assist those 46238  
persons in protecting their rights under this chapter and Chapter 46239  
4121. of the Revised Code. 46240

A self-insuring employer whose application is granted under 46241  
division (O) of this section shall post the name of the safety 46242  
professional and the ombudsperson and instructions for contacting 46243  
the safety professional and the ombudsperson in a conspicuous 46244

place at the site of the construction project. 46245

(Q) The administrator may consider all of the following when 46246  
deciding whether to grant a self-insuring employer the privilege 46247  
to self-insure a construction project as provided under division 46248  
(O) of this section: 46249

(1) Whether the self-insuring employer has an organizational 46250  
plan for the administration of the workers' compensation law; 46251

(2) Whether the safety program that is specifically designed 46252  
for the construction project provides for the safety of employees 46253  
employed on the construction project, is applicable to all 46254  
contractors and subcontractors who perform labor or work or 46255  
provide materials for the construction project, and has as a 46256  
component, a safety training program that complies with standards 46257  
adopted pursuant to the "Occupational Safety and Health Act of 46258  
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing 46259  
management and employee involvement; 46260

(3) Whether granting the privilege to self-insure the 46261  
construction project will reduce the costs of the construction 46262  
project; 46263

(4) Whether the self-insuring employer has employed an 46264  
ombudsperson as required under division (P) of this section; 46265

(5) Whether the self-insuring employer has sufficient surety 46266  
to secure the payment of claims for which the self-insuring 46267  
employer would be responsible pursuant to the granting of the 46268  
privilege to self-insure a construction project under division (O) 46269  
of this section. 46270

(R) As used in divisions (O), (P), and (Q), "self-insuring 46271  
employer" includes the following employers, whether or not they 46272  
have been granted the status of being a self-insuring employer 46273  
under division (B) of this section: 46274

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|--|---|
| (1) A state institution of higher education;   | 46275   |
| (2) A school district;   | 46276   |
| (3) A county school financing district;  | 46277   |
| (4) An educational service center;   | 46278   |
| (5) A community school established under Chapter 3314. of the Revised Code;  | 46279<br>46280  |
| (6) A municipal power agency as defined in section 3734.058 of the Revised Code.   | 46281<br>46282  |
| (S) As used in this section:   | 46283   |
| (1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;  | 46284<br>46285  |
| (2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.                | 46286<br>46287<br>46288<br>46289<br>46290<br>46291<br>46292 |
| <b>Sec. 4123.54.</b> (A) Except as otherwise provided in <del>division</del> <u>divisions</u> (I) and (K) of this section, every employee, who is injured or who contracts an occupational disease, and the dependents of each employee who is killed, or dies as the result of an occupational disease contracted in the course of employment, wherever such injury has occurred or occupational disease has been contracted, provided the same were not: | 46293<br>46294<br>46295<br>46296<br>46297<br>46298<br>46299 |
| (1) Purposely self-inflicted; or   | 46300   |
| (2) Caused by the employee being intoxicated or under the influence of a controlled substance not prescribed by a physician where the intoxication or being under the influence of the   | 46301<br>46302<br>46303                                     |

controlled substance not prescribed by a physician was the 46304  
proximate cause of the injury, is entitled to receive, either 46305  
directly from the employee's self-insuring employer as provided in 46306  
section 4123.35 of the Revised Code, or from the state insurance 46307  
fund, the compensation for loss sustained on account of the 46308  
injury, occupational disease, or death, and the medical, nurse, 46309  
and hospital services and medicines, and the amount of funeral 46310  
expenses in case of death, as are provided by this chapter. 46311

(B) For the purpose of this section, provided that an 46312  
employer has posted written notice to employees that the results 46313  
of, or the employee's refusal to submit to, any chemical test 46314  
described under this division may affect the employee's 46315  
eligibility for compensation and benefits pursuant to this chapter 46316  
and Chapter 4121. of the Revised Code, there is a rebuttable 46317  
presumption that an employee is intoxicated or under the influence 46318  
of a controlled substance not prescribed by the employee's 46319  
physician and that being intoxicated or under the influence of a 46320  
controlled substance not prescribed by the employee's physician is 46321  
the proximate cause of an injury under either of the following 46322  
conditions: 46323

(1) When any one or more of the following is true: 46324

(a) The employee, through a qualifying chemical test 46325  
administered within eight hours of an injury, is determined to 46326  
have an alcohol concentration level equal to or in excess of the 46327  
levels established in divisions (A)(1)(b) to (i) of section 46328  
4511.19 of the Revised Code; 46329

(b) The employee, through a qualifying chemical test 46330  
administered within thirty-two hours of an injury, is determined 46331  
to have one of the following controlled substances not prescribed 46332  
by the employee's physician in the employee's system that tests 46333  
above the following levels in an enzyme multiplied immunoassay 46334  
technique screening test and above the levels established in 46335

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|--|--|
| division (B)(1)(c) of this section in a gas chromatography mass spectrometry test:   | 46336<br>46337                                     |
| (i) For amphetamines, one thousand nanograms per milliliter of urine;  | 46338<br>46339                                     |
| (ii) For cannabinoids, fifty nanograms per milliliter of urine;  | 46340<br>46341                                     |
| (iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;   | 46342<br>46343                                     |
| (iv) For opiates, two thousand nanograms per milliliter of urine;  | 46344<br>46345                                     |
| (v) For phencyclidine, twenty-five nanograms per milliliter of urine.  | 46346<br>46347                                     |
| (c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test: | 46348<br>46349<br>46350<br>46351<br>46352<br>46353 |
| (i) For amphetamines, five hundred nanograms per milliliter of urine;  | 46354<br>46355                                     |
| (ii) For cannabinoids, fifteen nanograms per milliliter of urine;  | 46356<br>46357                                     |
| (iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;   | 46358<br>46359                                     |
| (iv) For opiates, two thousand nanograms per milliliter of urine;  | 46360<br>46361                                     |
| (v) For phencyclidine, twenty-five nanograms per milliliter of urine.  | 46362<br>46363                                     |
| (d) The employee, through a qualifying chemical test   | 46364  |

administered within thirty-two hours of an injury, is determined 46365  
to have barbiturates, benzodiazepines, methadone, or propoxyphene 46366  
in the employee's system that tests above levels established by 46367  
laboratories certified by the United States department of health 46368  
and human services. 46369

(2) When the employee refuses to submit to a requested 46370  
chemical test, on the condition that that employee is or was given 46371  
notice that the refusal to submit to any chemical test described 46372  
in division (B)(1) of this section may affect the employee's 46373  
eligibility for compensation and benefits under this chapter and 46374  
Chapter 4121. of the Revised Code. 46375

(C)(1) For purposes of division (B) of this section, a 46376  
chemical test is a qualifying chemical test if it is administered 46377  
to an employee after an injury under at least one of the following 46378  
conditions: 46379

(a) When the employee's employer had reasonable cause to 46380  
suspect that the employee may be intoxicated or under the 46381  
influence of a controlled substance not prescribed by the 46382  
employee's physician; 46383

(b) At the request of a police officer pursuant to section 46384  
4511.191 of the Revised Code, and not at the request of the 46385  
employee's employer; 46386

(c) At the request of a licensed physician who is not 46387  
employed by the employee's employer, and not at the request of the 46388  
employee's employer. 46389

(2) As used in division (C)(1)(a) of this section, 46390  
"reasonable cause" means, but is not limited to, evidence that an 46391  
employee is or was using alcohol or a controlled substance drawn 46392  
from specific, objective facts and reasonable inferences drawn 46393  
from these facts in light of experience and training. These facts 46394  
and inferences may be based on, but are not limited to, any of the 46395

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| following:   | 46396 |
| (a) Observable phenomena, such as direct observation of use,       | 46397 |
| possession, or distribution of alcohol or a controlled substance,  | 46398 |
| or of the physical symptoms of being under the influence of        | 46399 |
| alcohol or a controlled substance, such as but not limited to      | 46400 |
| slurred speech, dilated pupils, odor of alcohol or a controlled    | 46401 |
| substance, changes in affect, or dynamic mood swings;              | 46402 |
| (b) A pattern of abnormal conduct, erratic or aberrant             | 46403 |
| behavior, or deteriorating work performance such as frequent       | 46404 |
| absenteeism, excessive tardiness, or recurrent accidents, that     | 46405 |
| appears to be related to the use of alcohol or a controlled        | 46406 |
| substance, and does not appear to be attributable to other         | 46407 |
| factors;   | 46408 |
| (c) The identification of an employee as the focus of a            | 46409 |
| criminal investigation into unauthorized possession, use, or       | 46410 |
| trafficking of a controlled substance;                             | 46411 |
| (d) A report of use of alcohol or a controlled substance           | 46412 |
| provided by a reliable and credible source;                        | 46413 |
| (e) Repeated or flagrant violations of the safety or work          | 46414 |
| rules of the employee's employer, that are determined by the       | 46415 |
| employee's supervisor to pose a substantial risk of physical       | 46416 |
| injury or property damage and that appear to be related to the use | 46417 |
| of alcohol or a controlled substance and that do not appear        | 46418 |
| attributable to other factors.                                     | 46419 |
| (D) Nothing in this section shall be construed to affect the       | 46420 |
| rights of an employer to test employees for alcohol or controlled  | 46421 |
| substance abuse.   | 46422 |
| (E) For the purpose of this section, laboratories certified        | 46423 |
| by the United States department of health and human services or    | 46424 |
| laboratories that meet or exceed the standards of that department  | 46425 |
| for laboratory certification shall be used for processing the test | 46426 |

results of a qualifying chemical test. 46427

(F) The written notice required by division (B) of this 46428  
section shall be the same size or larger ~~then~~ than the certificate 46429  
of premium payment notice furnished by the bureau of workers' 46430  
compensation and shall be posted by the employer in the same 46431  
location as the certificate of premium payment notice or the 46432  
certificate of self-insurance. 46433

(G) If a condition that pre-existed an injury is 46434  
substantially aggravated by the injury, and that substantial 46435  
aggravation is documented by objective diagnostic findings, 46436  
objective clinical findings, or objective test results, no 46437  
compensation or benefits are payable because of the pre-existing 46438  
condition once that condition has returned to a level that would 46439  
have existed without the injury. 46440

(H)(1) Whenever, with respect to an employee of an employer 46441  
who is subject to and has complied with this chapter, there is 46442  
possibility of conflict with respect to the application of 46443  
workers' compensation laws because the contract of employment is 46444  
entered into and all or some portion of the work is or is to be 46445  
performed in a state or states other than Ohio, the employer and 46446  
the employee may agree to be bound by the laws of this state or by 46447  
the laws of some other state in which all or some portion of the 46448  
work of the employee is to be performed. The agreement shall be in 46449  
writing and shall be filed with the bureau of workers' 46450  
compensation within ten days after it is executed and shall remain 46451  
in force until terminated or modified by agreement of the parties 46452  
similarly filed. If the agreement is to be bound by the laws of 46453  
this state and the employer has complied with this chapter, then 46454  
the employee is entitled to compensation and benefits regardless 46455  
of where the injury occurs or the disease is contracted and the 46456  
rights of the employee and the employee's dependents under the 46457  
laws of this state are the exclusive remedy against the employer 46458

on account of injury, disease, or death in the course of and 46459  
arising out of the employee's employment. If the agreement is to 46460  
be bound by the laws of another state and the employer has 46461  
complied with the laws of that state, the rights of the employee 46462  
and the employee's dependents under the laws of that state are the 46463  
exclusive remedy against the employer on account of injury, 46464  
disease, or death in the course of and arising out of the 46465  
employee's employment without regard to the place where the injury 46466  
was sustained or the disease contracted. If an employer and an 46467  
employee enter into an agreement under this division, the fact 46468  
that the employer and the employee entered into that agreement 46469  
shall not be construed to change the status of an employee whose 46470  
continued employment is subject to the will of the employer or the 46471  
employee, unless the agreement contains a provision that expressly 46472  
changes that status. 46473

(2) If any employee or the employee's dependents pursue 46474  
workers' compensation benefits or recover damages from the 46475  
employer under the laws of another state, the amount awarded or 46476  
recovered, whether paid or to be paid in future installments, 46477  
shall be credited on the amount of any award of compensation or 46478  
benefits made to the employee or the employee's dependents by the 46479  
bureau. If an employee or the employee's dependents pursue or 46480  
receive an award of compensation or benefits under this chapter or 46481  
Chapter 4121., 4127., or 4131. of the Revised Code for the same 46482  
injury, occupational disease, or death for which the employee or 46483  
the employee's dependents pursued workers' compensation benefits 46484  
and received a decision on the merits as defined in section 46485  
4123.542 of the Revised Code under the laws of another state or 46486  
recovered damages under the laws of another state, the 46487  
administrator or any employer, by any lawful means, may collect 46488  
the amount of compensation or benefits paid to or on behalf of the 46489  
employee or the employee's dependents by the administrator or a 46490  
self-insuring employer pursuant to this chapter or Chapter 4121., 46491

4127., or 4131. of the Revised Code for that award. The 46492  
administrator or any employer also may collect from the employee 46493  
or the employee's dependents any costs and attorney's fees the 46494  
administrator or the employer incurs in collecting that payment 46495  
and any attorney's fees, penalties, interest, awards, and costs 46496  
incurred by an employer in contesting or responding to any claim 46497  
filed by the employee or the employee's dependents for the same 46498  
injury, occupational disease, or death that was filed after the 46499  
original claim for which the employee or the employee's dependents 46500  
received a decision on the merits as described in section 4123.542 46501  
of the Revised Code. If the employee's employer pays premiums into 46502  
the state insurance fund, the administrator shall not charge the 46503  
amount of compensation or benefits the administrator collects 46504  
pursuant to this division to the employer's experience. If the 46505  
administrator collects any costs, penalties, interest, awards, or 46506  
attorney's fees incurred by a state fund employer, the 46507  
administrator shall forward the amount of such costs, penalties, 46508  
interest, awards, and attorney's fees the administrator collects 46509  
to that employer. If the employee's employer is a self-insuring 46510  
employer, the self-insuring employer shall deduct the amount of 46511  
compensation or benefits the self-insuring employer collects 46512  
pursuant to this division from the paid compensation the 46513  
self-insuring employer reports to the administrator under division 46514  
(L) of section 4123.35 of the Revised Code. 46515

(3) Except as otherwise stipulated in division (H)(4) of this 46516  
section, if an employee is a resident of a state other than this 46517  
state and is insured under the workers' compensation law or 46518  
similar laws of a state other than this state, the employee and 46519  
the employee's dependents are not entitled to receive compensation 46520  
or benefits under this chapter, on account of injury, disease, or 46521  
death arising out of or in the course of employment while 46522  
temporarily within this state, and the rights of the employee and 46523  
the employee's dependents under the laws of the other state are 46524

the exclusive remedy against the employer on account of the 46525  
injury, disease, or death. 46526

(4) Division (H)(3) of this section does not apply to an 46527  
employee described in that division, or the employee's dependents, 46528  
unless both of the following apply: 46529

(a) The laws of the other state limit the ability of an 46530  
employee who is a resident of this state and is covered by this 46531  
chapter and Chapter 4123. of the Revised Code, or the employee's 46532  
dependents, to receive compensation or benefits under the other 46533  
state's workers' compensation law on account of injury, disease, 46534  
or death incurred by the employee that arises out of or in the 46535  
course of the employee's employment while temporarily within that 46536  
state in the same manner as specified in division (H)(3) of this 46537  
section for an employee who is a resident of a state other than 46538  
this state, or the employee's dependents; 46539

(b) The laws of the other state limit the liability of the 46540  
employer of the employee who is a resident of this state and who 46541  
is described in division (H)(4)(a) of this section for that 46542  
injury, disease, or death, in the same manner specified in 46543  
division (H)(3) of this section for the employer of an employee 46544  
who is a resident of the other state. 46545

(5) An employee, or the dependent of an employee, who elects 46546  
to receive compensation and benefits under this chapter or Chapter 46547  
4121., 4127., or 4131. of the Revised Code for a claim may not 46548  
receive compensation and benefits under the workers' compensation 46549  
laws of any state other than this state for that same claim. For 46550  
each claim submitted by or on behalf of an employee, the 46551  
administrator or, if the employee is employed by a self-insuring 46552  
employer, the self-insuring employer shall request the employee or 46553  
the employee's dependent to sign an election that affirms the 46554  
employee's or employee's dependent's acceptance of electing to 46555  
receive compensation and benefits under this chapter or Chapter 46556

4121., 4127., or 4131. of the Revised Code for that claim that 46557  
also affirmatively waives and releases the employee's or the 46558  
employee's dependent's right to file for and receive compensation 46559  
and benefits under the laws of any state other than this state for 46560  
that claim. The employee or employee's dependent shall sign the 46561  
election form within twenty-eight days after the administrator or 46562  
self-insuring employer submits the request or the administrator or 46563  
self-insuring employer shall suspend that claim until the 46564  
administrator or self-insuring employer receives the signed 46565  
election form. 46566

(I) If an employee who is covered under the federal 46567  
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 46568  
33 U.S.C. 901 et seq., is injured or contracts an occupational 46569  
disease or dies as a result of an injury or occupational disease, 46570  
and if that employee's or that employee's dependents' claim for 46571  
compensation or benefits for that injury, occupational disease, or 46572  
death is subject to the jurisdiction of that act, the employee or 46573  
the employee's dependents are not entitled to apply for and shall 46574  
not receive compensation or benefits under this chapter and 46575  
Chapter 4121. of the Revised Code. The rights of such an employee 46576  
and the employee's dependents under the federal "Longshore and 46577  
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 46578  
seq., are the exclusive remedy against the employer for that 46579  
injury, occupational disease, or death. 46580

(J) Compensation or benefits are not payable to a claimant 46581  
during the period of confinement of the claimant in any state or 46582  
federal correctional institution, or in any county jail in lieu of 46583  
incarceration in a state or federal correctional institution, 46584  
whether in this or any other state for conviction of violation of 46585  
any state or federal criminal law. 46586

(K) An employer, upon the approval of the administrator, may 46587  
provide for workers' compensation coverage for the employer's 46588

employees who are professional athletes and coaches by submitting 46589  
to the administrator proof of coverage under a league policy 46590  
issued under the laws of another state under either of the 46591  
following circumstances: 46592

(1) The employer administers the payroll and workers' 46593  
compensation insurance for a professional sports team subject to a 46594  
collective bargaining agreement, and the collective bargaining 46595  
agreement provides for the uniform administration of workers' 46596  
compensation benefits and compensation for professional athletes. 46597

(2) The employer is a professional sports league, or is a 46598  
member team of a professional sports league, and all of the 46599  
following apply: 46600

(a) The professional sports league operates as a single 46601  
entity, whereby all of the players and coaches of the sports 46602  
league are employees of the sports league and not of the 46603  
individual member teams. 46604

(b) The professional sports league at all times maintains 46605  
workers' compensation insurance that provides coverage for the 46606  
players and coaches of the sports league. 46607

(c) Each individual member team of the professional sports 46608  
league, pursuant to the organizational or operating documents of 46609  
the sports league, is obligated to the sports league to pay to the 46610  
sports league any workers' compensation claims that are not 46611  
covered by the workers' compensation insurance maintained by the 46612  
sports league. 46613

If the administrator approves the employer's proof of 46614  
coverage submitted under division (K) of this section, a 46615  
professional athlete or coach who is an employee of the employer 46616  
and the dependents of the professional athlete or coach are not 46617  
entitled to apply for and shall not receive compensation or 46618  
benefits under this chapter and Chapter 4121. of the Revised Code. 46619

The rights of such an athlete or coach and the dependents of such an athlete or coach under the laws of the state where the policy was issued are the exclusive remedy against the employer for the athlete or coach if the athlete or coach suffers an injury or contracts an occupational disease in the course of employment, or for the dependents of the athlete or the coach if the athlete or coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted.

**Sec. 4123.57.** Partial disability compensation shall be paid as follows.

Except as provided in this section, not earlier than twenty-six weeks after the date of termination of the latest period of payments under section 4123.56 of the Revised Code, or not earlier than twenty-six weeks after the date of the injury or contraction of an occupational disease in the absence of payments under section 4123.56 of the Revised Code, the employee may file an application with the bureau of workers' compensation for the determination of the percentage of the employee's permanent partial disability resulting from an injury or occupational disease.

Whenever the application is filed, the bureau shall send a copy of the application to the employee's employer or the employer's representative and shall schedule the employee for a medical examination by the bureau medical section. The bureau shall send a copy of the report of the medical examination to the employee, the employer, and their representatives. Thereafter, the administrator of workers' compensation shall review the employee's claim file and make a tentative order as the evidence before the administrator at the time of the making of the order warrants. If the administrator determines that there is a conflict of evidence,

the administrator shall send the application, along with the 46651  
claimant's file, to the district hearing officer who shall set the 46652  
application for a hearing. 46653

The administrator shall notify the employee, the employer, 46654  
and their representatives, in writing, of the tentative order and 46655  
of the parties' right to request a hearing. Unless the employee, 46656  
the employer, or their representative notifies the administrator, 46657  
in writing, of an objection to the tentative order within twenty 46658  
days after receipt of the notice thereof, the tentative order 46659  
shall go into effect and the employee shall receive the 46660  
compensation provided in the order. In no event shall there be a 46661  
reconsideration of a tentative order issued under this division. 46662

If the employee, the employer, or their representatives 46663  
timely notify the administrator of an objection to the tentative 46664  
order, the matter shall be referred to a district hearing officer 46665  
who shall set the application for hearing with written notices to 46666  
all interested persons. Upon referral to a district hearing 46667  
officer, the employer may obtain a medical examination of the 46668  
employee, pursuant to rules of the industrial commission. 46669

(A) The district hearing officer, upon the application, shall 46670  
determine the percentage of the employee's permanent disability, 46671  
except as is subject to division (B) of this section, based upon 46672  
that condition of the employee resulting from the injury or 46673  
occupational disease and causing permanent impairment evidenced by 46674  
medical or clinical findings reasonably demonstrable. The employee 46675  
shall receive sixty-six and two-thirds per cent of the employee's 46676  
average weekly wage, but not more than a maximum of thirty-three 46677  
and one-third per cent of the statewide average weekly wage as 46678  
defined in division (C) of section 4123.62 of the Revised Code, 46679  
per week regardless of the average weekly wage, for the number of 46680  
weeks which equals the percentage of two hundred weeks. Except on 46681  
application for reconsideration, review, or modification, which is 46682

filed within ten days after the date of receipt of the decision of 46683  
the district hearing officer, in no instance shall the former 46684  
award be modified unless it is found from medical or clinical 46685  
findings that the condition of the claimant resulting from the 46686  
injury has so progressed as to have increased the percentage of 46687  
permanent partial disability. A staff hearing officer shall hear 46688  
an application for reconsideration filed and the staff hearing 46689  
officer's decision is final. An employee may file an application 46690  
for a subsequent determination of the percentage of the employee's 46691  
permanent disability. If such an application is filed, the bureau 46692  
shall send a copy of the application to the employer or the 46693  
employer's representative. No sooner than sixty days from the date 46694  
of the mailing of the application to the employer or the 46695  
employer's representative, the administrator shall review the 46696  
application. The administrator may require a medical examination 46697  
or medical review of the employee. The administrator shall issue a 46698  
tentative order based upon the evidence before the administrator, 46699  
provided that if the administrator requires a medical examination 46700  
or medical review, the administrator shall not issue the tentative 46701  
order until the completion of the examination or review. 46702

The employer may obtain a medical examination of the employee 46703  
and may submit medical evidence at any stage of the process up to 46704  
a hearing before the district hearing officer, pursuant to rules 46705  
of the commission. The administrator shall notify the employee, 46706  
the employer, and their representatives, in writing, of the nature 46707  
and amount of any tentative order issued on an application 46708  
requesting a subsequent determination of the percentage of an 46709  
employee's permanent disability. An employee, employer, or their 46710  
representatives may object to the tentative order within twenty 46711  
days after the receipt of the notice thereof. If no timely 46712  
objection is made, the tentative order shall go into effect. In no 46713  
event shall there be a reconsideration of a tentative order issued 46714  
under this division. If an objection is timely made, the 46715

application for a subsequent determination shall be referred to a 46716  
district hearing officer who shall set the application for a 46717  
hearing with written notice to all interested persons. No 46718  
application for subsequent percentage determinations on the same 46719  
claim for injury or occupational disease shall be accepted for 46720  
review by the district hearing officer unless supported by 46721  
substantial evidence of new and changed circumstances developing 46722  
since the time of the hearing on the original or last 46723  
determination. 46724

No award shall be made under this division based upon a 46725  
percentage of disability which, when taken with all other 46726  
percentages of permanent disability, exceeds one hundred per cent. 46727  
If the percentage of the permanent disability of the employee 46728  
equals or exceeds ninety per cent, compensation for permanent 46729  
partial disability shall be paid for two hundred weeks. 46730

Compensation payable under this division accrues and is 46731  
payable to the employee from the date of last payment of 46732  
compensation, or, in cases where no previous compensation has been 46733  
paid, from the date of the injury or the date of the diagnosis of 46734  
the occupational disease. 46735

When an award under this division has been made prior to the 46736  
death of an employee, all unpaid installments accrued or to accrue 46737  
under the provisions of the award are payable to the surviving 46738  
spouse, or if there is no surviving spouse, to the dependent 46739  
children of the employee, and if there are no children surviving, 46740  
then to other dependents as the administrator determines. 46741

(B) ~~In~~ For purposes of this division, "payable per week" 46742  
means the seven consecutive day period in which compensation is 46743  
paid in installments according to the schedule associated with the 46744  
applicable injury as set forth in this division. 46745

Compensation paid in weekly installments according to the 46746

schedule described in this division may only be commuted to one or 46747  
more lump-sum payments pursuant to the procedure set forth in 46748  
section 4123.64 of the Revised Code. 46749

In cases included in the following schedule the compensation 46750  
payable per week to the employee is the statewide average weekly 46751  
wage as defined in division (C) of section 4123.62 of the Revised 46752  
Code per week and shall ~~continue during the periods provided in~~ be 46753  
paid in installments according to the following schedule: 46754

For the loss of a first finger, commonly known as a thumb, 46755  
sixty weeks. 46756

For the loss of a second finger, commonly called index 46757  
finger, thirty-five weeks. 46758

For the loss of a third finger, thirty weeks. 46759

For the loss of a fourth finger, twenty weeks. 46760

For the loss of a fifth finger, commonly known as the little 46761  
finger, fifteen weeks. 46762

The loss of a second, or distal, phalange of the thumb is 46763  
considered equal to the loss of one half of such thumb; the loss 46764  
of more than one half of such thumb is considered equal to the 46765  
loss of the whole thumb. 46766

The loss of the third, or distal, phalange of any finger is 46767  
considered equal to the loss of one-third of the finger. 46768

The loss of the middle, or second, phalange of any finger is 46769  
considered equal to the loss of two-thirds of the finger. 46770

The loss of more than the middle and distal phalanges of any 46771  
finger is considered equal to the loss of the whole finger. In no 46772  
case shall the amount received for more than one finger exceed the 46773  
amount provided in this schedule for the loss of a hand. 46774

For the loss of the metacarpal bone (bones of the palm) for 46775  
the corresponding thumb, or fingers, add ten weeks to the number 46776

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| of weeks under this division.  | 46777  |
| For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.  | 46778<br>46779<br>46780<br>46781   |
| If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the administrator may take that fact into consideration and increase the award of compensation accordingly, but the award made shall not exceed the amount of compensation for loss of a hand. | 46782<br>46783<br>46784<br>46785<br>46786<br>46787<br>46788<br>46789<br>46790<br>46791 |
| For the loss of a hand, one hundred seventy-five weeks.  | 46792  |
| For the loss of an arm, two hundred twenty-five weeks.   | 46793  |
| For the loss of a great toe, thirty weeks.   | 46794  |
| For the loss of one of the toes other than the great toe, ten weeks.   | 46795<br>46796   |
| The loss of more than two-thirds of any toe is considered equal to the loss of the whole toe.  | 46797<br>46798   |
| The loss of less than two-thirds of any toe is considered no loss, except as to the great toe; the loss of the great toe up to the interphalangeal joint is co-equal to the loss of one-half of the great toe; the loss of the great toe beyond the interphalangeal joint is considered equal to the loss of the whole great toe.  | 46799<br>46800<br>46801<br>46802<br>46803<br>46804                                     |
| For the loss of a foot, one hundred fifty weeks.   | 46805  |
| For the loss of a leg, two hundred weeks.  | 46806  |

For the loss of the sight of an eye, one hundred twenty-five weeks. 46807  
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For the permanent partial loss of sight of an eye, the portion of one hundred twenty-five weeks as the administrator in each case determines, based upon the percentage of vision actually lost as a result of the injury or occupational disease, but, in no case shall an award of compensation be made for less than twenty-five per cent loss of uncorrected vision. "Loss of uncorrected vision" means the percentage of vision actually lost as the result of the injury or occupational disease. 46809  
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For the permanent and total loss of hearing of one ear, twenty-five weeks; but in no case shall an award of compensation be made for less than permanent and total loss of hearing of one ear. 46817  
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For the permanent and total loss of hearing, one hundred twenty-five weeks; but, except pursuant to the next preceding paragraph, in no case shall an award of compensation be made for less than permanent and total loss of hearing. 46821  
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In case an injury or occupational disease results in serious facial or head disfigurement which either impairs or may in the future impair the opportunities to secure or retain employment, the administrator shall make an award of compensation as it deems proper and equitable, in view of the nature of the disfigurement, and not to exceed the sum of ten thousand dollars. For the purpose of making the award, it is not material whether the employee is gainfully employed in any occupation or trade at the time of the administrator's determination. 46825  
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When an award under this division has been made prior to the death of an employee all unpaid installments accrued or to accrue under the provisions of the award shall be payable to the surviving spouse, or if there is no surviving spouse, to the 46834  
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dependent children of the employee and if there are no such 46838  
children, then to such dependents as the administrator determines. 46839

When an employee has sustained the loss of a member by 46840  
severance, but no award has been made on account thereof prior to 46841  
the employee's death, the administrator shall make an award in 46842  
accordance with this division for the loss which shall be payable 46843  
to the surviving spouse, or if there is no surviving spouse, to 46844  
the dependent children of the employee and if there are no such 46845  
children, then to such dependents as the administrator determines. 46846

(C) Compensation for partial impairment under divisions (A) 46847  
and (B) of this section is in addition to the compensation paid 46848  
the employee pursuant to section 4123.56 of the Revised Code. A 46849  
claimant may receive compensation under divisions (A) and (B) of 46850  
this section. 46851

In all cases arising under division (B) of this section, if 46852  
it is determined by any one of the following: (1) the amputee 46853  
clinic at University hospital, Ohio state university; (2) the 46854  
rehabilitation services commission; (3) an amputee clinic or 46855  
prescribing physician approved by the administrator or the 46856  
administrator's designee, that an injured or disabled employee is 46857  
in need of an artificial appliance, or in need of a repair 46858  
thereof, regardless of whether the appliance or its repair will be 46859  
serviceable in the vocational rehabilitation of the injured 46860  
employee, and regardless of whether the employee has returned to 46861  
or can ever again return to any gainful employment, the bureau 46862  
shall pay the cost of the artificial appliance or its repair out 46863  
of the surplus created by division (B) of section 4123.34 of the 46864  
Revised Code. 46865

In those cases where a rehabilitation services commission 46866  
recommendation that an injured or disabled employee is in need of 46867  
an artificial appliance would conflict with their state plan, 46868  
adopted pursuant to the "Rehabilitation Act of 1973," 87 Stat. 46869

355, 29 U.S.C.A. 701, the administrator or the administrator's 46870  
designee or the bureau may obtain a recommendation from an amputee 46871  
clinic or prescribing physician that they determine appropriate. 46872

(D) If an employee of a state fund employer makes application 46873  
for a finding and the administrator finds that the employee has 46874  
contracted silicosis as defined in division (X), or coal miners' 46875  
pneumoconiosis as defined in division (Y), or asbestosis as 46876  
defined in division (AA) of section 4123.68 of the Revised Code, 46877  
and that a change of such employee's occupation is medically 46878  
advisable in order to decrease substantially further exposure to 46879  
silica dust, asbestos, or coal dust and if the employee, after the 46880  
finding, has changed or shall change the employee's occupation to 46881  
an occupation in which the exposure to silica dust, asbestos, or 46882  
coal dust is substantially decreased, the administrator shall 46883  
allow to the employee an amount equal to fifty per cent of the 46884  
statewide average weekly wage per week for a period of thirty 46885  
weeks, commencing as of the date of the discontinuance or change, 46886  
and for a period of one hundred weeks immediately following the 46887  
expiration of the period of thirty weeks, the employee shall 46888  
receive sixty-six and two-thirds per cent of the loss of wages 46889  
resulting directly and solely from the change of occupation but 46890  
not to exceed a maximum of an amount equal to fifty per cent of 46891  
the statewide average weekly wage per week. No such employee is 46892  
entitled to receive more than one allowance on account of 46893  
discontinuance of employment or change of occupation and benefits 46894  
shall cease for any period during which the employee is employed 46895  
in an occupation in which the exposure to silica dust, asbestos, 46896  
or coal dust is not substantially less than the exposure in the 46897  
occupation in which the employee was formerly employed or for any 46898  
period during which the employee may be entitled to receive 46899  
compensation or benefits under section 4123.68 of the Revised Code 46900  
on account of disability from silicosis, asbestosis, or coal 46901  
miners' pneumoconiosis. An award for change of occupation for a 46902

coal miner who has contracted coal miners' pneumoconiosis may be 46903  
granted under this division even though the coal miner continues 46904  
employment with the same employer, so long as the coal miner's 46905  
employment subsequent to the change is such that the coal miner's 46906  
exposure to coal dust is substantially decreased and a change of 46907  
occupation is certified by the claimant as permanent. The 46908  
administrator may accord to the employee medical and other 46909  
benefits in accordance with section 4123.66 of the Revised Code. 46910

(E) If a firefighter or police officer makes application for 46911  
a finding and the administrator finds that the firefighter or 46912  
police officer has contracted a cardiovascular and pulmonary 46913  
disease as defined in division (W) of section 4123.68 of the 46914  
Revised Code, and that a change of the firefighter's or police 46915  
officer's occupation is medically advisable in order to decrease 46916  
substantially further exposure to smoke, toxic gases, chemical 46917  
fumes, and other toxic vapors, and if the firefighter, or police 46918  
officer, after the finding, has changed or changes occupation to 46919  
an occupation in which the exposure to smoke, toxic gases, 46920  
chemical fumes, and other toxic vapors is substantially decreased, 46921  
the administrator shall allow to the firefighter or police officer 46922  
an amount equal to fifty per cent of the statewide average weekly 46923  
wage per week for a period of thirty weeks, commencing as of the 46924  
date of the discontinuance or change, and for a period of 46925  
seventy-five weeks immediately following the expiration of the 46926  
period of thirty weeks the administrator shall allow the 46927  
firefighter or police officer sixty-six and two-thirds per cent of 46928  
the loss of wages resulting directly and solely from the change of 46929  
occupation but not to exceed a maximum of an amount equal to fifty 46930  
per cent of the statewide average weekly wage per week. No such 46931  
firefighter or police officer is entitled to receive more than one 46932  
allowance on account of discontinuance of employment or change of 46933  
occupation and benefits shall cease for any period during which 46934  
the firefighter or police officer is employed in an occupation in 46935

which the exposure to smoke, toxic gases, chemical fumes, and 46936  
other toxic vapors is not substantially less than the exposure in 46937  
the occupation in which the firefighter or police officer was 46938  
formerly employed or for any period during which the firefighter 46939  
or police officer may be entitled to receive compensation or 46940  
benefits under section 4123.68 of the Revised Code on account of 46941  
disability from a cardiovascular and pulmonary disease. The 46942  
administrator may accord to the firefighter or police officer 46943  
medical and other benefits in accordance with section 4123.66 of 46944  
the Revised Code. 46945

(F) An order issued under this section is appealable pursuant 46946  
to section 4123.511 of the Revised Code but is not appealable to 46947  
court under section 4123.512 of the Revised Code. 46948

**Sec. 4141.35.** (A) If the director of job and family services 46949  
finds that any fraudulent misrepresentation has been made by an 46950  
applicant for or a recipient of benefits with the object of 46951  
obtaining benefits to which the applicant or recipient was not 46952  
entitled, and in addition to any other penalty or forfeiture under 46953  
this chapter, then the director: 46954

(1) Shall within four years after the end of the benefit year 46955  
in which the fraudulent misrepresentation was made reject or 46956  
cancel such person's entire weekly claim for benefits that was 46957  
fraudulently claimed, or the person's entire benefit rights if the 46958  
misrepresentation was in connection with the filing of the 46959  
claimant's application for determination of benefit rights; 46960

(2) Shall by order declare that, for each application for 46961  
benefit rights and for each weekly claim canceled, such person 46962  
shall be ineligible for two otherwise valid weekly claims for 46963  
benefits, claimed within six years subsequent to the discovery of 46964  
such misrepresentation; 46965

(3) By order shall require that the total amount of benefits 46966

rejected or canceled under division (A)(1) of this section be 46967  
repaid to the director before such person may become eligible for 46968  
further benefits, and shall withhold such unpaid sums from future 46969  
benefit payments accruing and otherwise payable to such claimant. 46970  
Effective with orders issued on or after January 1, 1993, if such 46971  
benefits are not repaid within thirty days after the director's 46972  
order becomes final, interest on the amount remaining unpaid shall 46973  
be charged to the person at a rate and calculated in the same 46974  
manner as provided under section 4141.23 of the Revised Code. When 46975  
a person ordered to repay benefits has repaid all overpaid 46976  
benefits according to a plan approved by the director, the 46977  
director may cancel the amount of interest that accrued during the 46978  
period of the repayment plan. The director may take action in ~~the~~ 46979  
~~courts~~ any court of ~~this state~~ competent jurisdiction to collect 46980  
benefits and interest as provided in sections 4141.23 and 4141.27 46981  
of the Revised Code, in regard to the collection of unpaid 46982  
contributions, using the final repayment order as the basis for 46983  
such action. ~~No~~ Except as otherwise provided in this division, no 46984  
administrative or legal proceedings for the collection of such 46985  
benefits or interest due shall be initiated after the expiration 46986  
of six years from the date on which the director's order requiring 46987  
repayment became final and the amount of any benefits or interest 46988  
not recovered at that time, and any liens thereon, shall be 46989  
canceled as uncollectible. The time limit for instituting 46990  
proceedings shall be extended by the period of any stay to the 46991  
collection or by any other time period to which the parties 46992  
mutually agree. 46993

(4) May take action to collect benefits fraudulently obtained 46994  
under the unemployment compensation law of any other state or the 46995  
United States or Canada. Such action may be initiated in the 46996  
courts of this state in the same manner as provided for unpaid 46997  
contributions in section 4141.41 of the Revised Code. 46998

(5) May take action to collect benefits that have been 46999  
fraudulently obtained from the director, interest pursuant to 47000  
division (A)(3) of this section, and court costs, through 47001  
attachment proceedings under Chapter 2715. of the Revised Code and 47002  
garnishment proceedings under Chapter 2716. of the Revised Code. 47003

(B) If the director finds that an applicant for benefits has 47004  
been credited with a waiting period or paid benefits to which the 47005  
applicant was not entitled for reasons other than fraudulent 47006  
misrepresentation, the director shall: 47007

(1)(a) Within six months after the determination under which 47008  
the claimant was credited with that waiting period or paid 47009  
benefits becomes final pursuant to section 4141.28 of the Revised 47010  
Code, or within three years after the end of the benefit year in 47011  
which such benefits were claimed, whichever is later, by order 47012  
cancel such waiting period and require that such benefits be 47013  
repaid to the director or be withheld from any benefits to which 47014  
such applicant is or may become entitled before any additional 47015  
benefits are paid, provided that the repayment or withholding 47016  
shall not be required where the overpayment is the result of the 47017  
director's correcting a prior decision due to a typographical or 47018  
clerical error in the director's prior decision, or an error in an 47019  
employer's report under division (G) of section 4141.28 of the 47020  
Revised Code. 47021

(b) The limitation specified in division (B)(1)(a) of this 47022  
section shall not apply to cases involving the retroactive payment 47023  
of remuneration covering periods for which benefits were 47024  
previously paid to the claimant. However, in such cases, the 47025  
director's order requiring repayment shall not be issued unless 47026  
the director is notified of such retroactive payment within six 47027  
months from the date the retroactive payment was made to the 47028  
claimant. 47029

(2) The director may, by reciprocal agreement with the United 47030

States secretary of labor or another state, recover overpayment 47031  
amounts from unemployment benefits otherwise payable to an 47032  
individual under Chapter 4141. of the Revised Code. Any 47033  
overpayments made to the individual that have not previously been 47034  
recovered under an unemployment benefit program of the United 47035  
States may be recovered in accordance with section 303(g) of the 47036  
"Social Security Act" and sections 3304(a)(4) and 3306(f) of the 47037  
"Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 47038  
3301 to 3311. 47039

(3) If the amounts required to be repaid under division (B) 47040  
of this section are not recovered within three years from the date 47041  
the director's order requiring payment became final, initiate no 47042  
further action to collect such benefits and the amount of any 47043  
benefits not recovered at that time shall be canceled as 47044  
uncollectible, provided that the time limit for collection shall 47045  
be extended by the period of any stay to the collection or by any 47046  
other time period to which the parties mutually agree. 47047

(C) The appeal provisions of sections 4141.281 and 4141.282 47048  
of the Revised Code shall apply to all orders and determinations 47049  
issued under this section, except that an individual's right of 47050  
appeal under division (B)(2) of this section shall be limited to 47051  
this state's authority to recover overpayment of benefits. 47052

(D) If an individual makes a full repayment or a repayment 47053  
that is less than the full amount required by this section, the 47054  
director shall apply the repayment to the mutualized account under 47055  
division (B) of section 4141.25 of the Revised Code, except that 47056  
the director shall credit the repayment to the accounts of the 47057  
individual's base period employers that previously have not been 47058  
credited for the amount of improperly paid benefits charged 47059  
against their accounts based on the proportion of benefits charged 47060  
against the accounts as determined pursuant to division (D) of 47061  
section 4141.24 of the Revised Code. 47062

The director shall deposit any repayment collected under this 47063  
section that the director determines to be payment of interest or 47064  
court costs into the unemployment compensation special 47065  
administrative fund established pursuant to section 4141.11 of the 47066  
Revised Code. 47067

**Sec. 4163.07.** (A)(1) Prior to transporting any high-level 47068  
radioactive waste, spent nuclear fuel, transuranic waste, or any 47069  
quantity of special nuclear material or by-product material that 47070  
meets or exceeds the highway route controlled quantity, within, 47071  
into, or through the state, the shipper of the material shall 47072  
notify the executive director of the emergency management agency 47073  
established under section 5502.22 of the Revised Code of the 47074  
shipment. The notice shall be in writing and be sent by certified 47075  
mail and shall include the name of the shipper; the name of the 47076  
carrier; the type and quantity of the material; the transportation 47077  
mode of the shipment; the proposed date and time of shipment of 47078  
the material within, into, or through the state; and the starting 47079  
point, termination or exit point, scheduled route, and each 47080  
alternate route, if any, of the shipment. In order to constitute 47081  
effective notification under division (A)(1) of this section, 47082  
notification shall be received by the executive director at least 47083  
four days prior to shipment within, into, or through the state. 47084

(2) The carrier or shipper of any shipment subject to 47085  
division (A)(1) of this section shall immediately notify the 47086  
executive director of any change in the date and time of the 47087  
shipment or in the route of the shipment within, into, or through 47088  
the state. 47089

(B) Upon receipt of a notice of any shipment of material that 47090  
is subject to division (A)(1) of this section within, into, or 47091  
through the state, the executive director of the emergency 47092  
management agency shall immediately notify the director of public 47093

safety, the director of environmental protection, the director of 47094  
health, the chairperson of the public utilities commission, and 47095  
the county emergency management agency and sheriff of each county 47096  
along the proposed route, or any alternate route, of the shipment. 47097

(C) The executive director of the emergency management agency 47098  
shall not disclose to any person other than those persons 47099  
enumerated in division (B) of this section any information 47100  
pertaining to any shipment of special nuclear material or 47101  
by-product material prior to the time that the shipment is 47102  
completed. 47103

(D) This section does not apply to radioactive materials, 47104  
other than by-products, shipped by or for the United States 47105  
department of defense and United States department of energy for 47106  
military or national defense purposes. Nothing in this section 47107  
requires the disclosure of any defense information or restricted 47108  
data as defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 47109  
42 U.S.C. 2011, as amended. 47110

(E) No person shall transport or cause to be transported 47111  
within, into, or through the state any material that is subject to 47112  
division (A)(1) of this section without first providing the notice 47113  
required in that division. 47114

(F) Whoever violates division (E) of this section, in 47115  
addition to any penalty imposed under section 4163.99 of the 47116  
Revised Code, is liable for a civil penalty in an amount not to 47117  
exceed the following, as applicable: 47118

(1) Twenty-five thousand dollars for a motor carrier, as 47119  
defined in section 4923.01 of the Revised Code; 47120

(2) Forty-five thousand dollars for the first cask designated 47121  
for transport by rail and thirty thousand dollars for each 47122  
additional cask designated for transport by rail that is shipped 47123  
by the same person or entity in the same shipment. 47124

The attorney general, upon the request of the executive 47125  
director of the emergency management agency, shall bring a civil 47126  
action to collect the penalty. Fines collected pursuant to this 47127  
section shall be deposited into the state treasury to the credit 47128  
of the ~~radioactive waste~~ public utilities transportation safety 47129  
fund created in section ~~4905.801~~ 4921.21 of the Revised Code. 47130

**Sec. 4169.02.** (A) For the purposes of regulating the 47131  
construction, maintenance, mechanical operation, and inspection of 47132  
passenger tramways that are associated with ski areas and of 47133  
registering operators of passenger tramways in this state, there 47134  
is hereby established in the division of ~~labor~~ industrial 47135  
compliance in the department of commerce a ski tramway board to be 47136  
appointed by the governor, with the advice and consent of the 47137  
senate. The board shall consist of three members, one of whom 47138  
shall be a public member who is an experienced skier and familiar 47139  
with ski areas in this state, one of whom shall be a ski area 47140  
operator actively engaged in the business of recreational skiing 47141  
in this state, and one of whom shall be a professional engineer 47142  
who is knowledgeable in the design or operation of passenger 47143  
tramways. 47144

Of the initial appointments, one member shall be appointed 47145  
for a term of one year, one for a term of two years, and one for a 47146  
term of three years. The member appointed to the term beginning on 47147  
July 1, 1996, shall be appointed to a term ending on June 30, 47148  
1997; the member appointed to a term beginning on July 1, 1997, 47149  
shall be appointed to a term ending on June 30, 1999; and the 47150  
member appointed to a term beginning on July 1, 1998, shall be 47151  
appointed to a term ending on June 30, 2001. Thereafter, each of 47152  
the members shall be appointed for a term of six years. Each 47153  
member shall hold office from the date of appointment until the 47154  
end of the term for which the member was appointed. In the event 47155  
of a vacancy, the governor, with the advice and consent of the 47156

senate, shall appoint a successor who shall hold office for the 47157  
remainder of the term for which the successor's predecessor was 47158  
appointed. A member shall continue in office subsequent to the 47159  
expiration date of the member's term until the member's successor 47160  
takes office or until a period of sixty days has elapsed, 47161  
whichever occurs first. The board shall elect a chairperson from 47162  
its members. 47163

The governor may remove any member of the board at any time 47164  
for misfeasance, nonfeasance, or malfeasance in office after 47165  
giving the member a copy of the charges against the member and an 47166  
opportunity to be heard publicly in person or by counsel in the 47167  
member's defense. Any such act of removal by the governor is 47168  
final. A statement of the findings of the governor, the reason for 47169  
the governor's action, and the answer, if any, of the member shall 47170  
be filed by the governor with the secretary of state and shall be 47171  
open to public inspection. 47172

Members of the board shall be paid two hundred fifty dollars 47173  
for each meeting that the member attends, except that no member 47174  
shall be paid or receive more than seven hundred fifty dollars for 47175  
attending meetings during any calendar year. Each member shall be 47176  
reimbursed for the member's actual and necessary expenses incurred 47177  
in the performance of official board duties. The chairperson shall 47178  
be paid two hundred fifty dollars annually in addition to any 47179  
compensation the chairperson receives under this division for 47180  
attending meetings and any other compensation the chairperson 47181  
receives for serving on the board. 47182

The division shall provide the board with such offices and 47183  
such clerical, professional, and other assistance as may be 47184  
reasonably necessary for the board to carry on its work. The 47185  
division shall maintain accurate copies of the board's rules as 47186  
promulgated in accordance with division (B) of this section and 47187  
shall keep all of the board's records, including business records, 47188

and inspection reports as well as its own records and reports. The 47189  
cost of administering the board and conducting inspections shall 47190  
be included in the budget of the division based on revenues 47191  
generated by the registration fees established under section 47192  
4169.03 of the Revised Code. 47193

(B) In accordance with Chapter 119. of the Revised Code, the 47194  
board shall adopt and may amend or rescind rules relating to 47195  
public safety in the construction, maintenance, mechanical 47196  
operation, and inspection of passenger tramways. The rules shall 47197  
be in accordance with established standards in the business of ski 47198  
area operation, if any, and shall not discriminate in their 47199  
application to ski area operators. 47200

No person shall violate the rules of the board. 47201

(C) The authority of the board shall not extend to any matter 47202  
relative to the operation of a ski area other than the 47203  
construction, maintenance, mechanical operation, and inspection of 47204  
passenger tramways. 47205

(D) A majority of the board constitutes a quorum and may 47206  
perform and exercise all the duties and powers devolving upon the 47207  
board. 47208

**Sec. 4169.03.** (A) Before a passenger tramway operator may 47209  
operate any passenger tramway in the state, the operator shall 47210  
apply to the ski tramway board, on forms prepared by it, for 47211  
registration by the board. The application shall contain an 47212  
inventory of the passenger tramways that the applicant intends to 47213  
operate and other information as the board may reasonably require 47214  
and shall be accompanied by the following annual fees: 47215

(1) Each aerial passenger tramway, five hundred dollars; 47216

(2) Each skimobile, two hundred dollars; 47217

(3) Each chair lift, two hundred dollars; 47218

- (4) Each J bar, T bar, or platter pull, one hundred dollars; 47219  
(5) Each rope tow, fifty dollars; 47220  
(6) Each wire rope tow, seventy-five dollars; 47221  
(7) Each conveyor, one hundred dollars. 47222

When an operator operates an aerial passenger tramway, a 47223  
skimobile, or a chair lift during both a winter and summer season, 47224  
the annual fee shall be one and one-half the above amount for the 47225  
respective passenger tramway. 47226

(B) Upon payment of the appropriate annual fees in accordance 47227  
with division (A) of this section, the board shall issue a 47228  
registration certificate to the operator. Each certificate shall 47229  
remain in force until the thirtieth day of September next ensuing. 47230  
The board shall renew an operator's certificate in accordance with 47231  
the standard renewal procedure in Chapter 4745. of the Revised 47232  
Code upon payment of the appropriate annual fees. 47233

(C) Money received from the registration fees and from the 47234  
fines collected pursuant to section 4169.99 of the Revised Code 47235  
shall be paid into the state treasury to the credit of the ~~labor~~ 47236  
industrial compliance operating fund created in section 121.084 of 47237  
the Revised Code. 47238

(D) No person shall operate a passenger tramway in this state 47239  
unless the person has been registered by the board. 47240

**Sec. 4169.04.** (A) The division of ~~labor~~ industrial compliance 47241  
in the department of commerce shall make such inspection of the 47242  
construction, maintenance, and mechanical operation of passenger 47243  
tramways as the ski tramway board may reasonably require. The 47244  
division may contract with other qualified engineers to make such 47245  
inspection or may accept the inspection report by any qualified 47246  
inspector of an insurance company authorized to insure passenger 47247  
tramways in this state. 47248

(B) If, as the result of an inspection, an employee of the 47249  
division or other agent with whom the division has contracted 47250  
finds that a violation of the board's rules exists or a condition 47251  
in passenger tramway construction, maintenance, or mechanical 47252  
operation exists that endangers public safety, the employee or 47253  
agent shall make an immediate report to the board for appropriate 47254  
investigation and order. 47255

**Sec. 4171.04.** (A) Before a person may operate any roller 47256  
skating rink in the state, the person shall: 47257

(1) Apply to the superintendent of ~~labor~~ industrial 47258  
compliance in the department of commerce on forms designated by 47259  
the superintendent for a certificate of registration; 47260

(2) Provide an inventory of all the roller skating rinks that 47261  
the applicant intends to operate, and any other information the 47262  
superintendent may reasonably require on the application; 47263

(3) Include with the application a registration fee of 47264  
twenty-five dollars for each roller skating rink to be operated by 47265  
the applicant. 47266

(B) Upon compliance with division (A) of this section, the 47267  
superintendent shall issue a certificate of registration to the 47268  
operator for each roller skating rink to be operated by the 47269  
applicant. Each certificate shall remain in force as follows: 47270

(1) Until the thirty-first day of December next ensuing; or 47271

(2) For sixty days after the dissolution of a partnership. 47272

(C) In case of the dissolution of a partnership by death, the 47273  
surviving partner or partners may operate a roller skating rink 47274  
pursuant to the certificate of registration obtained by the 47275  
partnership in accordance with this chapter for a period of sixty 47276  
days following dissolution. The heirs or representatives of 47277  
deceased persons and receivers or trustees in bankruptcy appointed 47278

by any competent authority may operate under the certificate of 47279  
registration of the person succeeded in possession. 47280

(D) The superintendent shall renew an operator's certificate 47281  
of registration in accordance with the standard license renewal 47282  
procedure set forth in Chapter 4745. of the Revised Code upon 47283  
payment of a renewal fee of twenty-five dollars for each roller 47284  
skating rink to be operated by the applicant. 47285

(E) Money received from the registration and renewal fees 47286  
collected pursuant to this chapter shall be paid into the state 47287  
treasury to the credit of the ~~labor~~ industrial compliance 47288  
operating fund created in section 121.084 of the Revised Code. 47289

**Sec. 4301.30.** (A) All fees collected by the division of 47290  
liquor control shall be deposited in the state treasury to the 47291  
credit of the undivided liquor permit fund, which is hereby 47292  
created, at the time prescribed under section 4301.12 of the 47293  
Revised Code. Each payment shall be accompanied by a statement 47294  
showing separately the amount collected for each class of permits 47295  
in each municipal corporation and in each township outside the 47296  
limits of any municipal corporation in such township. ~~An~~ 47297

(B)(1) ~~An~~ amount equal to forty-five per cent of the fund 47298  
shall be paid from the fund into the state liquor regulatory fund, 47299  
which is hereby created in the state treasury. The state liquor 47300  
regulatory fund shall be used to pay the operating expenses of the 47301  
division of liquor control in administering and enforcing Title 47302  
XLIII of the Revised Code and the operating expenses of the liquor 47303  
control commission. Investment earnings of the fund shall be 47304  
credited to the fund. 47305

(2) Whenever, in the judgment of the director of budget and 47306  
management, the amount of money that is in the state liquor 47307  
regulatory fund is in excess of the amount that is needed to pay 47308  
the operating expenses of the division in administering and 47309

enforcing Title XLIII of the Revised Code and the operating 47310  
expenses of the commission, the director shall credit the excess 47311  
amount to the general revenue fund. 47312

(C) Twenty per cent of the undivided liquor permit fund shall 47313  
be paid into the statewide treatment and prevention fund, which is 47314  
hereby created in the state treasury. This amount shall be 47315  
appropriated by the general assembly, together with an amount 47316  
equal to one and one-half per cent of the gross profit of the 47317  
division of liquor control derived under division (B)(4) of 47318  
section 4301.10 of the Revised Code, to the department of alcohol 47319  
and drug addiction services. In planning for the allocation of and 47320  
in allocating these amounts for the purposes of Chapter 3793. of 47321  
the Revised Code, the department of alcohol and drug addiction 47322  
services shall comply with the nondiscrimination provisions of 47323  
Title VI of the Civil Rights Act of 1964, and any rules adopted 47324  
under that act. 47325

(D) Thirty-five per cent of the undivided liquor permit fund 47326  
shall be distributed by the superintendent of liquor control at 47327  
quarterly calendar periods as follows: 47328

~~(A)~~(1) To each municipal corporation, the aggregate amount 47329  
shown by the statements to have been collected from permits in the 47330  
municipal corporation, for the use of the general fund of the 47331  
municipal corporation; 47332

~~(B)~~(2) To each township, the aggregate amount shown by the 47333  
statements to have been collected from permits in its territory, 47334  
outside the limits of any municipal corporation located in the 47335  
township, for the use of the general fund of the township, or for 47336  
fire protection purposes, including buildings and equipment in the 47337  
township or in an established fire district within the township, 47338  
to the extent that the funds are derived from liquor permits 47339  
within the territory comprising such fire district. 47340

(E) For the purpose of the distribution required by this 47341  
section, E, H, and D permits covering boats or vessels are deemed 47342  
to have been issued in the municipal corporation or township 47343  
wherein the owner or operator of the vehicle, boat, vessel, or 47344  
dining car equipment to which the permit relates has the owner's 47345  
or operator's principal office or place of business within the 47346  
state. 47347

(F) If the liquor control commission determines that the 47348  
police or other officers of any municipal corporation or township 47349  
entitled to share in ~~such~~ distributions under this section are 47350  
refusing or culpably neglecting to enforce this chapter and 47351  
Chapter 4303. of the Revised Code, or the penal laws of this state 47352  
relating to the manufacture, importation, transportation, 47353  
distribution, and sale of beer and intoxicating liquors, or if the 47354  
prosecuting officer of a municipal corporation or a municipal 47355  
court fails to comply with the request of the commission 47356  
authorized by division (A)(4) of section 4301.10 of the Revised 47357  
Code, the commission, by certified mail, may notify the chief 47358  
executive officer of the municipal corporation or the board of 47359  
township trustees of the township of the failure and require the 47360  
immediate cooperation of the responsible officers of the municipal 47361  
corporation or township with the division of liquor control in the 47362  
enforcement of those chapters and penal laws. Within thirty days 47363  
after the notice is served, the commission shall determine whether 47364  
the requirement has been complied with. If the commission 47365  
determines that the requirement has not been complied with, it may 47366  
issue an order to the superintendent to withhold the distributive 47367  
share of the municipal corporation or township until further order 47368  
of the commission. This action of the commission is reviewable 47369  
within thirty days thereafter in the court of common pleas of 47370  
Franklin county. 47371

(G) All fees collected by the division of liquor control from 47372

the issuance or renewal of B-2a and S permits, and paid by B-2a 47373  
and S permit holders who do not also hold A-2 permits, shall be 47374  
deposited in the state treasury to the credit of the state liquor 47375  
~~control~~ regulatory fund. Once during each fiscal year, an amount 47376  
equal to fifty per cent of the fees collected shall be paid from 47377  
the state liquor ~~control~~ regulatory fund into the general revenue 47378  
fund. 47379

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 47380  
owner or operator of a hotel or motel that is required to be 47381  
licensed under section 3731.03 of the Revised Code, that contains 47382  
at least fifty rooms for registered transient guests or is owned 47383  
by a state institution of higher education as defined in section 47384  
3345.011 of the Revised Code or a private college or university, 47385  
and that qualifies under the other requirements of this section, 47386  
or to the owner or operator of a restaurant specified under this 47387  
section, to sell beer and any intoxicating liquor at retail, only 47388  
by the individual drink in glass and from the container, for 47389  
consumption on the premises where sold, and to registered guests 47390  
in their rooms, which may be sold by means of a controlled access 47391  
alcohol and beverage cabinet in accordance with division (B) of 47392  
section 4301.21 of the Revised Code; and to sell the same products 47393  
in the same manner and amounts not for consumption on the premises 47394  
as may be sold by holders of D-1 and D-2 permits. The premises of 47395  
the hotel or motel shall include a retail food establishment or a 47396  
food service operation licensed pursuant to Chapter 3717. of the 47397  
Revised Code that operates as a restaurant for purposes of this 47398  
chapter and that is affiliated with the hotel or motel and within 47399  
or contiguous to the hotel or motel, and that serves food within 47400  
the hotel or motel, but the principal business of the owner or 47401  
operator of the hotel or motel shall be the accommodation of 47402  
transient guests. In addition to the privileges authorized in this 47403  
division, the holder of a D-5a permit may exercise the same 47404

privileges as the holder of a D-5 permit. 47405

The owner or operator of a hotel, motel, or restaurant who 47406  
qualified for and held a D-5a permit on August 4, 1976, may, if 47407  
the owner or operator held another permit before holding a D-5a 47408  
permit, either retain a D-5a permit or apply for the permit 47409  
formerly held, and the division of liquor control shall issue the 47410  
permit for which the owner or operator applies and formerly held, 47411  
notwithstanding any quota. 47412

A D-5a permit shall not be transferred to another location. 47413  
No quota restriction shall be placed on the number of D-5a permits 47414  
that may be issued. 47415

The fee for this permit is two thousand three hundred 47416  
forty-four dollars. 47417

(B) Permit D-5b may be issued to the owner, operator, tenant, 47418  
lessee, or occupant of an enclosed shopping center to sell beer 47419  
and intoxicating liquor at retail, only by the individual drink in 47420  
glass and from the container, for consumption on the premises 47421  
where sold; and to sell the same products in the same manner and 47422  
amount not for consumption on the premises as may be sold by 47423  
holders of D-1 and D-2 permits. In addition to the privileges 47424  
authorized in this division, the holder of a D-5b permit may 47425  
exercise the same privileges as a holder of a D-5 permit. 47426

A D-5b permit shall not be transferred to another location. 47427

One D-5b permit may be issued at an enclosed shopping center 47428  
containing at least two hundred twenty-five thousand, but less 47429  
than four hundred thousand, square feet of floor area. 47430

Two D-5b permits may be issued at an enclosed shopping center 47431  
containing at least four hundred thousand square feet of floor 47432  
area. No more than one D-5b permit may be issued at an enclosed 47433  
shopping center for each additional two hundred thousand square 47434  
feet of floor area or fraction of that floor area, up to a maximum 47435

of five D-5b permits for each enclosed shopping center. The number 47436  
of D-5b permits that may be issued at an enclosed shopping center 47437  
shall be determined by subtracting the number of D-3 and D-5 47438  
permits issued in the enclosed shopping center from the number of 47439  
D-5b permits that otherwise may be issued at the enclosed shopping 47440  
center under the formulas provided in this division. Except as 47441  
provided in this section, no quota shall be placed on the number 47442  
of D-5b permits that may be issued. Notwithstanding any quota 47443  
provided in this section, the holder of any D-5b permit first 47444  
issued in accordance with this section is entitled to its renewal 47445  
in accordance with section 4303.271 of the Revised Code. 47446

The holder of a D-5b permit issued before April 4, 1984, 47447  
whose tenancy is terminated for a cause other than nonpayment of 47448  
rent, may return the D-5b permit to the division of liquor 47449  
control, and the division shall cancel that permit. Upon 47450  
cancellation of that permit and upon the permit holder's payment 47451  
of taxes, contributions, premiums, assessments, and other debts 47452  
owing or accrued upon the date of cancellation to this state and 47453  
its political subdivisions and a filing with the division of a 47454  
certification of that payment, the division shall issue to that 47455  
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 47456  
that person requests. The division shall issue the D-5 permit, or 47457  
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 47458  
D-3, or D-5 permits currently issued in the municipal corporation 47459  
or in the unincorporated area of the township where that person's 47460  
proposed premises is located equals or exceeds the maximum number 47461  
of such permits that can be issued in that municipal corporation 47462  
or in the unincorporated area of that township under the 47463  
population quota restrictions contained in section 4303.29 of the 47464  
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 47465  
be transferred to another location. If a D-5b permit is canceled 47466  
under the provisions of this paragraph, the number of D-5b permits 47467  
that may be issued at the enclosed shopping center for which the 47468

D-5b permit was issued, under the formula provided in this 47469  
division, shall be reduced by one if the enclosed shopping center 47470  
was entitled to more than one D-5b permit under the formula. 47471

The fee for this permit is two thousand three hundred 47472  
forty-four dollars. 47473

(C) Permit D-5c may be issued to the owner or operator of a 47474  
retail food establishment or a food service operation licensed 47475  
pursuant to Chapter 3717. of the Revised Code that operates as a 47476  
restaurant for purposes of this chapter and that qualifies under 47477  
the other requirements of this section to sell beer and any 47478  
intoxicating liquor at retail, only by the individual drink in 47479  
glass and from the container, for consumption on the premises 47480  
where sold, and to sell the same products in the same manner and 47481  
amounts not for consumption on the premises as may be sold by 47482  
holders of D-1 and D-2 permits. In addition to the privileges 47483  
authorized in this division, the holder of a D-5c permit may 47484  
exercise the same privileges as the holder of a D-5 permit. 47485

To qualify for a D-5c permit, the owner or operator of a 47486  
retail food establishment or a food service operation licensed 47487  
pursuant to Chapter 3717. of the Revised Code that operates as a 47488  
restaurant for purposes of this chapter, shall have operated the 47489  
restaurant at the proposed premises for not less than twenty-four 47490  
consecutive months immediately preceding the filing of the 47491  
application for the permit, have applied for a D-5 permit no later 47492  
than December 31, 1988, and appear on the division's quota waiting 47493  
list for not less than six months immediately preceding the filing 47494  
of the application for the permit. In addition to these 47495  
requirements, the proposed D-5c permit premises shall be located 47496  
within a municipal corporation and further within an election 47497  
precinct that, at the time of the application, has no more than 47498  
twenty-five per cent of its total land area zoned for residential 47499  
use. 47500

A D-5c permit shall not be transferred to another location. 47501  
No quota restriction shall be placed on the number of such permits 47502  
that may be issued. 47503

Any person who has held a D-5c permit for at least two years 47504  
may apply for a D-5 permit, and the division of liquor control 47505  
shall issue the D-5 permit notwithstanding the quota restrictions 47506  
contained in section 4303.29 of the Revised Code or in any rule of 47507  
the liquor control commission. 47508

The fee for this permit is one thousand five hundred 47509  
sixty-three dollars. 47510

(D) Permit D-5d may be issued to the owner or operator of a 47511  
retail food establishment or a food service operation licensed 47512  
pursuant to Chapter 3717. of the Revised Code that operates as a 47513  
restaurant for purposes of this chapter and that is located at an 47514  
airport operated by a board of county commissioners pursuant to 47515  
section 307.20 of the Revised Code, at an airport operated by a 47516  
port authority pursuant to Chapter 4582. of the Revised Code, or 47517  
at an airport operated by a regional airport authority pursuant to 47518  
Chapter 308. of the Revised Code. The holder of a D-5d permit may 47519  
sell beer and any intoxicating liquor at retail, only by the 47520  
individual drink in glass and from the container, for consumption 47521  
on the premises where sold, and may sell the same products in the 47522  
same manner and amounts not for consumption on the premises where 47523  
sold as may be sold by the holders of D-1 and D-2 permits. In 47524  
addition to the privileges authorized in this division, the holder 47525  
of a D-5d permit may exercise the same privileges as the holder of 47526  
a D-5 permit. 47527

A D-5d permit shall not be transferred to another location. 47528  
No quota restrictions shall be placed on the number of such 47529  
permits that may be issued. 47530

The fee for this permit is two thousand three hundred 47531

forty-four dollars. 47532

(E) Permit D-5e may be issued to any nonprofit organization 47533  
that is exempt from federal income taxation under the "Internal 47534  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 47535  
amended, or that is a charitable organization under any chapter of 47536  
the Revised Code, and that owns or operates a riverboat that meets 47537  
all of the following: 47538

(1) Is permanently docked at one location; 47539

(2) Is designated as an historical riverboat by the Ohio 47540  
historical society; 47541

(3) Contains not less than fifteen hundred square feet of 47542  
floor area; 47543

(4) Has a seating capacity of fifty or more persons. 47544

The holder of a D-5e permit may sell beer and intoxicating 47545  
liquor at retail, only by the individual drink in glass and from 47546  
the container, for consumption on the premises where sold. 47547

A D-5e permit shall not be transferred to another location. 47548  
No quota restriction shall be placed on the number of such permits 47549  
that may be issued. The population quota restrictions contained in 47550  
section 4303.29 of the Revised Code or in any rule of the liquor 47551  
control commission shall not apply to this division, and the 47552  
division shall issue a D-5e permit to any applicant who meets the 47553  
requirements of this division. However, the division shall not 47554  
issue a D-5e permit if the permit premises or proposed permit 47555  
premises are located within an area in which the sale of 47556  
spirituous liquor by the glass is prohibited. 47557

The fee for this permit is one thousand two hundred nineteen 47558  
dollars. 47559

(F) Permit D-5f may be issued to the owner or operator of a 47560  
retail food establishment or a food service operation licensed 47561

under Chapter 3717. of the Revised Code that operates as a 47562  
restaurant for purposes of this chapter and that meets all of the 47563  
following: 47564

(1) It contains not less than twenty-five hundred square feet 47565  
of floor area. 47566

(2) It is located on or in, or immediately adjacent to, the 47567  
shoreline of, a navigable river. 47568

(3) It provides docking space for twenty-five boats. 47569

(4) It provides entertainment and recreation, provided that 47570  
not less than fifty per cent of the business on the permit 47571  
premises shall be preparing and serving meals for a consideration. 47572

In addition, each application for a D-5f permit shall be 47573  
accompanied by a certification from the local legislative 47574  
authority that the issuance of the D-5f permit is not inconsistent 47575  
with that political subdivision's comprehensive development plan 47576  
or other economic development goal as officially established by 47577  
the local legislative authority. 47578

The holder of a D-5f permit may sell beer and intoxicating 47579  
liquor at retail, only by the individual drink in glass and from 47580  
the container, for consumption on the premises where sold. 47581

A D-5f permit shall not be transferred to another location. 47582

The division of liquor control shall not issue a D-5f permit 47583  
if the permit premises or proposed permit premises are located 47584  
within an area in which the sale of spirituous liquor by the glass 47585  
is prohibited. 47586

A fee for this permit is two thousand three hundred 47587  
forty-four dollars. 47588

As used in this division, "navigable river" means a river 47589  
that is also a "navigable water" as defined in the "Federal Power 47590  
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 47591

(G) Permit D-5g may be issued to a nonprofit corporation that 47592  
is either the owner or the operator of a national professional 47593  
sports museum. The holder of a D-5g permit may sell beer and any 47594  
intoxicating liquor at retail, only by the individual drink in 47595  
glass and from the container, for consumption on the premises 47596  
where sold. The holder of a D-5g permit shall sell no beer or 47597  
intoxicating liquor for consumption on the premises where sold 47598  
after ~~one~~ two-thirty a.m. A D-5g permit shall not be transferred 47599  
to another location. No quota restrictions shall be placed on the 47600  
number of D-5g permits that may be issued. The fee for this permit 47601  
is one thousand eight hundred seventy-five dollars. 47602

(H)(1) Permit D-5h may be issued to any nonprofit 47603  
organization that is exempt from federal income taxation under the 47604  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 47605  
501(c)(3), as amended, that owns or operates any of the following: 47606

(a) A fine arts museum, provided that the nonprofit 47607  
organization has no less than one thousand five hundred bona fide 47608  
members possessing full membership privileges; 47609

(b) A community arts center. As used in division (H)(1)(b) of 47610  
this section, "community arts center" means a facility that 47611  
provides arts programming to the community in more than one arts 47612  
discipline, including, but not limited to, exhibits of works of 47613  
art and performances by both professional and amateur artists. 47614

(c) A community theater, provided that the nonprofit 47615  
organization is a member of the Ohio arts council and the American 47616  
community theatre association and has been in existence for not 47617  
less than ten years. As used in division (H)(1)(c) of this 47618  
section, "community theater" means a facility that contains at 47619  
least one hundred fifty seats and has a primary function of 47620  
presenting live theatrical performances and providing recreational 47621  
opportunities to the community. 47622

(2) The holder of a D-5h permit may sell beer and any 47623  
intoxicating liquor at retail, only by the individual drink in 47624  
glass and from the container, for consumption on the premises 47625  
where sold. The holder of a D-5h permit shall sell no beer or 47626  
intoxicating liquor for consumption on the premises where sold 47627  
after one a.m. A D-5h permit shall not be transferred to another 47628  
location. No quota restrictions shall be placed on the number of 47629  
D-5h permits that may be issued. 47630

(3) The fee for a D-5h permit is one thousand eight hundred 47631  
seventy-five dollars. 47632

(I) Permit D-5i may be issued to the owner or operator of a 47633  
retail food establishment or a food service operation licensed 47634  
under Chapter 3717. of the Revised Code that operates as a 47635  
restaurant for purposes of this chapter and that meets all of the 47636  
following requirements: 47637

(1) It is located in a municipal corporation or a township 47638  
with a population of one hundred thousand or less. 47639

(2) It has inside seating capacity for at least one hundred 47640  
forty persons. 47641

(3) It has at least four thousand square feet of floor area. 47642

(4) It offers full-course meals, appetizers, and sandwiches. 47643

(5) Its receipts from beer and liquor sales, excluding wine 47644  
sales, do not exceed twenty-five per cent of its total gross 47645  
receipts. 47646

(6) It has at least one of the following characteristics: 47647

(a) The value of its real and personal property exceeds seven 47648  
hundred twenty-five thousand dollars. 47649

(b) It is located on property that is owned or leased by the 47650  
state or a state agency, and its owner or operator has 47651  
authorization from the state or the state agency that owns or 47652

leases the property to obtain a D-5i permit. 47653

The holder of a D-5i permit may sell beer and any 47654  
intoxicating liquor at retail, only by the individual drink in 47655  
glass and from the container, for consumption on the premises 47656  
where sold, and may sell the same products in the same manner and 47657  
amounts not for consumption on the premises where sold as may be 47658  
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 47659  
permit shall sell no beer or intoxicating liquor for consumption 47660  
on the premises where sold after two-thirty a.m. In addition to 47661  
the privileges authorized in this division, the holder of a D-5i 47662  
permit may exercise the same privileges as the holder of a D-5 47663  
permit. 47664

A D-5i permit shall not be transferred to another location. 47665  
The division of liquor control shall not renew a D-5i permit 47666  
unless the retail food establishment or food service operation for 47667  
which it is issued continues to meet the requirements described in 47668  
divisions (I)(1) to (6) of this section. No quota restrictions 47669  
shall be placed on the number of D-5i permits that may be issued. 47670  
The fee for the D-5i permit is two thousand three hundred 47671  
forty-four dollars. 47672

(J) Permit D-5j may be issued to the owner or the operator of 47673  
a retail food establishment or a food service operation licensed 47674  
under Chapter 3717. of the Revised Code to sell beer and 47675  
intoxicating liquor at retail, only by the individual drink in 47676  
glass and from the container, for consumption on the premises 47677  
where sold and to sell beer and intoxicating liquor in the same 47678  
manner and amounts not for consumption on the premises where sold 47679  
as may be sold by the holders of D-1 and D-2 permits. The holder 47680  
of a D-5j permit may exercise the same privileges, and shall 47681  
observe the same hours of operation, as the holder of a D-5 47682  
permit. 47683

The D-5j permit shall be issued only within a community 47684

entertainment district that is designated under section 4301.80 of 47685  
the Revised Code and that meets one of the following 47686  
qualifications: 47687

(1) It is located in a municipal corporation with a 47688  
population of at least one hundred thousand. 47689

(2) It is located in a municipal corporation with a 47690  
population of at least twenty thousand, and either of the 47691  
following applies: 47692

(a) It contains an amusement park the rides of which have 47693  
been issued a permit by the department of agriculture under 47694  
Chapter 1711. of the Revised Code. 47695

(b) Not less than fifty million dollars will be invested in 47696  
development and construction in the community entertainment 47697  
district's area located in the municipal corporation. 47698

(3) It is located in a township with a population of at least 47699  
forty thousand. 47700

(4) It is located in a township with a population of at least 47701  
twenty thousand, and not less than seventy million dollars will be 47702  
invested in development and construction in the community 47703  
entertainment district's area located in the township. 47704

(5) It is located in a municipal corporation with a 47705  
population between ten thousand and twenty thousand, and both of 47706  
the following apply: 47707

(a) The municipal corporation was incorporated as a village 47708  
prior to calendar year 1840 and currently has a historic downtown 47709  
business district. 47710

(b) The municipal corporation is located in the same county 47711  
as another municipal corporation with at least one community 47712  
entertainment district. 47713

(6) It is located in a municipal corporation with a 47714

population of at least ten thousand, and not less than seventy 47715  
million dollars will be invested in development and construction 47716  
in the community entertainment district's area located in the 47717  
municipal corporation. 47718

(7) It is located in a municipal corporation with a 47719  
population of at least five thousand, and not less than one 47720  
hundred million dollars will be invested in development and 47721  
construction in the community entertainment district's area 47722  
located in the municipal corporation. 47723

The location of a D-5j permit may be transferred only within 47724  
the geographic boundaries of the community entertainment district 47725  
in which it was issued and shall not be transferred outside the 47726  
geographic boundaries of that district. 47727

Not more than one D-5j permit shall be issued within each 47728  
community entertainment district for each five acres of land 47729  
located within the district. Not more than fifteen D-5j permits 47730  
may be issued within a single community entertainment district. 47731  
Except as otherwise provided in division (J)(4) of this section, 47732  
no quota restrictions shall be placed upon the number of D-5j 47733  
permits that may be issued. 47734

The fee for a D-5j permit is two thousand three hundred 47735  
forty-four dollars. 47736

(K)(1) Permit D-5k may be issued to any nonprofit 47737  
organization that is exempt from federal income taxation under the 47738  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 47739  
501(c)(3), as amended, that is the owner or operator of a 47740  
botanical garden recognized by the American association of 47741  
botanical gardens and arboreta, and that has not less than 47742  
twenty-five hundred bona fide members. 47743

(2) The holder of a D-5k permit may sell beer and any 47744  
intoxicating liquor at retail, only by the individual drink in 47745

glass and from the container, on the premises where sold. 47746

(3) The holder of a D-5k permit shall sell no beer or 47747  
intoxicating liquor for consumption on the premises where sold 47748  
after one a.m. 47749

(4) A D-5k permit shall not be transferred to another 47750  
location. 47751

(5) No quota restrictions shall be placed on the number of 47752  
D-5k permits that may be issued. 47753

(6) The fee for the D-5k permit is one thousand eight hundred 47754  
seventy-five dollars. 47755

(L)(1) Permit D-5l may be issued to the owner or the operator 47756  
of a ~~business~~ retail food establishment or a food service 47757  
operation licensed under Chapter 3717. of the Revised Code to sell 47758  
beer and intoxicating liquor at retail, only by the individual 47759  
drink in glass and from the container, for consumption on the 47760  
premises where sold and to sell beer and intoxicating liquor in 47761  
the same manner and amounts not for consumption on the premises 47762  
where sold as may be sold by the holders of D-1 and D-2 permits. 47763  
The holder of a D-5l permit may exercise the same privileges, and 47764  
shall observe the same hours of operation, as the holder of a D-5 47765  
permit. 47766

(2) The D-5l permit shall be issued only to a premises that 47767  
has gross annual receipts from the sale of food and meals that 47768  
constitute not less than seventy-five per cent of its total gross 47769  
annual receipts, that is located within a revitalization district 47770  
that is designated under section 4301.81 of the Revised Code, that 47771  
is located in a municipal corporation or township in which the 47772  
number of D-5 permits issued equals or exceeds the number of those 47773  
permits that may be issued in that municipal corporation or 47774  
township under section 4303.29 of the Revised Code, and that is 47775  
located in a county with a population of one hundred twenty-five 47776

thousand or less according to the population estimates certified 47777  
by the department of development for calendar year 2006. 47778

(3) The location of a D-5l permit may be transferred only 47779  
within the geographic boundaries of the revitalization district in 47780  
which it was issued and shall not be transferred outside the 47781  
geographic boundaries of that district. 47782

(4) Not more than one D-5l permit shall be issued within each 47783  
revitalization district for each five acres of land located within 47784  
the district. Not more than fifteen D-5l permits may be issued 47785  
within a single revitalization district. Except as otherwise 47786  
provided in division (L)(4) of this section, no quota restrictions 47787  
shall be placed upon the number of D-5l permits that may be 47788  
issued. 47789

(5) No D-5l permit shall be issued to an adult entertainment 47790  
establishment as defined in section 2907.39 of the Revised Code. 47791

(6) The fee for a D-5l permit is two thousand three hundred 47792  
forty-four dollars. 47793

(M) Permit D-5m may be issued to either the owner or the 47794  
operator of a retail food establishment or food service operation 47795  
licensed under Chapter 3717. of the Revised Code that operates as 47796  
a restaurant for purposes of this chapter and that is located in, 47797  
or affiliated with, a center for the preservation of wild animals 47798  
as defined in section 4301.404 of the Revised Code, to sell beer 47799  
and any intoxicating liquor at retail, only by the glass and from 47800  
the container, for consumption on the premises where sold, and to 47801  
sell the same products in the same manner and amounts not for 47802  
consumption on the premises as may be sold by the holders of D-1 47803  
and D-2 permits. In addition to the privileges authorized by this 47804  
division, the holder of a D-5m permit may exercise the same 47805  
privileges as the holder of a D-5 permit. 47806

A D-5m permit shall not be transferred to another location. 47807

No quota restrictions shall be placed on the number of D-5m 47808  
permits that may be issued. The fee for a permit D-5m is two 47809  
thousand three hundred forty-four dollars. 47810

(N) Permit D-5n shall be issued to either a casino operator 47811  
or a casino management company licensed under Chapter 3772. of the 47812  
Revised Code that operates a casino facility under that chapter, 47813  
to sell beer and any intoxicating liquor at retail, only by the 47814  
individual drink in glass and from the container, for consumption 47815  
on the premises where sold, and to sell the same products in the 47816  
same manner and amounts not for consumption on the premises as may 47817  
be sold by the holders of D-1 and D-2 permits. In addition to the 47818  
privileges authorized by this division, the holder of a D-5n 47819  
permit may exercise the same privileges as the holder of a D-5 47820  
permit. A D-5n permit shall not be transferred to another 47821  
location. Only one D-5n permit may be issued per casino facility 47822  
and not more than four D-5n permits shall be issued in this state. 47823  
The fee for a permit D-5n shall be twenty thousand dollars. The 47824  
holder of a D-5n permit may conduct casino gaming on the permit 47825  
premises notwithstanding any provision of the Revised Code or 47826  
Administrative Code. 47827

(O) Permit D-5o may be issued to the owner or operator of a 47828  
retail food establishment or a food service operation licensed 47829  
under Chapter 3717. of the Revised Code that operates as a 47830  
restaurant for purposes of this chapter and that is located within 47831  
a casino facility for which a D-5n permit has been issued. The 47832  
holder of a D-5o permit may sell beer and any intoxicating liquor 47833  
at retail, only by the individual drink in glass and from the 47834  
container, for consumption on the premises where sold, and may 47835  
sell the same products in the same manner and amounts not for 47836  
consumption on the premises where sold as may be sold by the 47837  
holders of D-1 and D-2 permits. In addition to the privileges 47838  
authorized by this division, the holder of a D-5o permit may 47839

exercise the same privileges as the holder of a D-5 permit. A D-5o 47840  
permit shall not be transferred to another location. No quota 47841  
restrictions shall be placed on the number of such permits that 47842  
may be issued. The fee for this permit is two thousand three 47843  
hundred forty-four dollars. 47844

**Sec. 4303.22.** Permit H may be issued for a fee of three 47845  
hundred dollars to a for-hire motor carrier ~~by motor vehicle~~ who 47846  
~~also~~ holds a license issued by the public utilities commission to 47847  
transport beer, intoxicating liquor, and alcohol, or any of them, 47848  
in this state for delivery or use in this state. This section does 47849  
not prevent the division of liquor control from contracting with 47850  
~~common or contract~~ for-hire motor carriers for the delivery or 47851  
transportation of liquor for the division, and any ~~contract or~~ 47852  
~~common~~ for-hire motor carrier so contracting with the division is 47853  
eligible for an H permit. Manufacturers or wholesale distributors 47854  
of beer or intoxicating liquor other than spirituous liquor who 47855  
transport or deliver their own products to or from their premises 47856  
licensed under this chapter and Chapter 4301. of the Revised Code 47857  
by their own trucks as an incident to the purchase or sale of such 47858  
beverages need not obtain an H permit. Carriers by rail shall 47859  
receive an H permit upon application for it. 47860

This section does not prevent the division from issuing, upon 47861  
the payment of the permit fee, an H permit to any person, 47862  
partnership, firm, or corporation licensed by any other state to 47863  
engage in the business of manufacturing and brewing or producing 47864  
beer, wine, and mixed beverages or any person, partnership, firm, 47865  
or corporation licensed by the United States or any other state to 47866  
engage in the business of importing beer, wine, and mixed 47867  
beverages manufactured outside the United States. The 47868  
manufacturer, brewer, or importer of products manufactured outside 47869  
the United States, upon the issuance of an H permit, may 47870  
transport, ship, and deliver only its own products to holders of 47871

B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 47872  
operated by such class H permit holder. No H permit shall be 47873  
issued by the division to such applicant until the applicant files 47874  
with the division a liability insurance certificate or policy 47875  
satisfactory to the division, in a sum of not less than one 47876  
thousand nor more than five thousand dollars for property damage 47877  
and for not less than five thousand nor more than fifty thousand 47878  
dollars for loss sustained by reason of injury or death and with 47879  
such other terms as the division considers necessary to adequately 47880  
protect the interest of the public, having due regard for the 47881  
number of persons and amount of property affected. The certificate 47882  
or policy shall insure the manufacturer, brewer, or importer of 47883  
products manufactured outside the United States against loss 47884  
sustained by reason of the death of or injury to persons, and for 47885  
loss of or damage to property, from the negligence of such class H 47886  
permit holder in the operation of its motor vehicles or equipment 47887  
in this state. 47888

**Sec. 4313.02.** (A) The state may transfer to JobsOhio, and 47889  
JobsOhio may accept the transfer of, all or a portion of the 47890  
enterprise acquisition project for a transfer price payable by 47891  
JobsOhio to the state. Any such transfer shall be treated as an 47892  
absolute conveyance and true sale of the interest in the 47893  
enterprise acquisition project purported to be conveyed for all 47894  
purposes, and not as a pledge or other security interest. The 47895  
characterization of any such transfer as a true sale and absolute 47896  
conveyance shall not be negated or adversely affected by the 47897  
acquisition or retention by the state of a residual or 47898  
reversionary interest in the enterprise acquisition project, the 47899  
participation of any state officer or employee as a member or 47900  
officer of, or contracting for staff support to, JobsOhio or any 47901  
subsidiary of JobsOhio, any regulatory responsibility of an 47902  
officer or employee of the state, including the authority to 47903

collect amounts to be received in connection therewith, the 47904  
retention of the state of any legal title to or interest in any 47905  
portion of the enterprise acquisition project for the purpose of 47906  
regulatory activities, or any characterization of JobsOhio or 47907  
obligations of JobsOhio under accounting, taxation, or securities 47908  
regulations, or any other reason whatsoever. An absolute 47909  
conveyance and true sale or lease shall exist under this section 47910  
regardless of whether JobsOhio has any recourse against the state 47911  
or the treatment or characterization of the transfer as a 47912  
financing for any purpose. Upon and following the transfer, the 47913  
state shall not have any right, title, or interest in the 47914  
enterprise acquisition project so transferred other than any 47915  
residual interest that may be described in the transfer agreement 47916  
pursuant to the following paragraph and division (D) of this 47917  
section. Any determination of the fair market value of the 47918  
enterprise acquisition project reflected in the transfer agreement 47919  
shall be conclusive and binding on the state and JobsOhio. 47920

Any transfer of the enterprise acquisition project that is a 47921  
lease or grant of a franchise shall be for a term not to exceed 47922  
twenty-five years. Any transfer of the enterprise acquisition 47923  
project that is an assignment and sale, conveyance, or other 47924  
transfer shall contain a provision that the state shall have the 47925  
option to have conveyed or transferred back to it, at no cost, the 47926  
enterprise acquisition project, as it then exists, no later than 47927  
twenty-five years after the original transfer authorized in the 47928  
transfer agreement on such other terms as shall be provided in the 47929  
transfer agreement. 47930

The exercise of the powers granted by this section will be 47931  
for the benefit of the people of the state. All or any portion of 47932  
the enterprise acquisition project transferred pursuant to the 47933  
transfer agreement that would be exempt from real property taxes 47934  
or assessments or real property taxes or assessments in the 47935

absence of such transfer shall, as it may from time to time exist 47936  
thereafter, remain exempt from real property taxes or assessments 47937  
levied by the state and its subdivisions to the same extent as if 47938  
not transferred. The gross receipts and income of JobsOhio derived 47939  
from the enterprise acquisition project shall be exempt from 47940  
taxation levied by the state and its subdivisions, including, but 47941  
not limited to, the taxes levied pursuant to Chapters 718., 5739., 47942  
5741., 5747., and 5751. of the Revised Code. Any transfer from the 47943  
state to JobsOhio of the enterprise acquisition project, or item 47944  
included or to be included in the project, shall be exempt from 47945  
the taxes levied pursuant to Chapters 5739. and 5741. of the 47946  
Revised Code. 47947

(B) The proceeds of any transfer under division (A) of this 47948  
section may be expended as provided in the transfer agreement for 47949  
any one or more of the following purposes: 47950

(1) Funding, payment, or defeasance of outstanding bonds 47951  
issued pursuant to Chapters 151. and 166. of the Revised Code and 47952  
secured by pledged liquor profits as defined in section 151.40 of 47953  
the Revised Code; 47954

(2) Deposit into the general revenue fund; 47955

(3) Deposit into the clean Ohio revitalization fund created 47956  
pursuant to section 122.658 of the Revised Code, the innovation 47957  
Ohio loan fund created pursuant to section 166.16 of the Revised 47958  
Code, the research and development loan fund created pursuant to 47959  
section 166.20 of the Revised Code, the logistics and distribution 47960  
infrastructure fund created pursuant to section 166.26 of the 47961  
Revised Code, the advanced energy research and development fund 47962  
created pursuant to section 3706.27 of the Revised Code, and the 47963  
advanced energy research and development taxable fund created 47964  
pursuant to section 3706.27 of the Revised Code; 47965

(4) Conveyance to JobsOhio for the purposes for which it was 47966

created. 47967

(C)(1) The state may covenant, pledge, and agree in the 47968  
transfer agreement, with and for the benefit of JobsOhio, that it 47969  
shall maintain statutory authority for the enterprise acquisition 47970  
project and the revenues of the enterprise acquisition project and 47971  
not otherwise materially impair any obligations supported by a 47972  
pledge of revenues of the enterprise acquisition project. The 47973  
transfer agreement may provide or authorize the manner for 47974  
determining material impairment of the security for any such 47975  
outstanding obligations, including by assessing and evaluating the 47976  
revenues of the enterprise acquisition project. 47977

(2) The director of budget and management, in consultation 47978  
with the director of commerce, may, without need for any other 47979  
approval, negotiate terms of any documents, including the transfer 47980  
agreement, necessary to effect the transfer and the acceptance of 47981  
the transfer of the enterprise acquisition project. The director 47982  
of budget and management and the director of commerce shall 47983  
execute the transfer agreement on behalf of the state. The 47984  
director of budget and management may also, without need for any 47985  
other approval, retain or contract for the services of commercial 47986  
appraisers, underwriters, investment bankers, and financial 47987  
advisers, as are necessary in the judgment of the director of 47988  
budget and management to effect the transfer agreement. Any 47989  
transfer agreement may contain terms and conditions established by 47990  
the state to carry out and effectuate the purposes of this 47991  
section, including, without limitation, covenants binding the 47992  
state in favor of JobsOhio. Any such transfer agreement shall be 47993  
sufficient to effectuate the transfer without regard to any other 47994  
laws governing other property sales or financial transactions by 47995  
the state. The director of budget and management may create any 47996  
funds or accounts, within or without the state treasury, as are 47997  
needed for the transactions and activities authorized by this 47998

section. 47999

(3) The transfer agreement may authorize JobsOhio, in the 48000  
ordinary course of doing business, to convey, lease, release, or 48001  
otherwise dispose of any regular inventory or tangible personal 48002  
property. Ownership of the interest in the enterprise acquisition 48003  
project that is transferred to JobsOhio under this section and the 48004  
transfer agreement shall be maintained in JobsOhio or a nonprofit 48005  
entity the sole member of which is JobsOhio until the enterprise 48006  
acquisition project is transferred back to the state pursuant to 48007  
the second paragraph of division (A) and division (D) of this 48008  
section. 48009

(D) The transfer agreement may authorize JobsOhio to fix, 48010  
alter, and collect rentals and other charges for the use and 48011  
occupancy of all or any portion of the enterprise acquisition 48012  
project and to lease any portion of the enterprise acquisition 48013  
project to the state, and shall include a contract with, or the 48014  
granting of an option to, the state to have the enterprise 48015  
acquisition project, as it then exists, transferred back to it 48016  
without charge in accordance with the terms of the transfer 48017  
agreement after retirement or redemption, or provision therefor, 48018  
of all obligations supported by a pledge of spirituous liquor 48019  
profits. 48020

(E) JobsOhio, the director of budget and management, and the 48021  
director of commerce shall, subject to approval by the controlling 48022  
board, enter into a contract, which may be part of the transfer 48023  
agreement, for the continuing operation by the division of liquor 48024  
control of spirituous liquor distribution and merchandising 48025  
subject to standards for performance provided in that contract 48026  
that may relate to or support division (C)(1) of this section. The 48027  
contract shall establish other terms and conditions for the 48028  
assignment of duties to, and the provision of advice, services, 48029  
and other assistance by, the division of liquor control, including 48030

providing for the necessary staffing and payment by JobsOhio of 48031  
appropriate compensation to the division for the performance of 48032  
such duties and the provision of such advice, services, and other 48033  
assistance. The division of liquor control shall manage and 48034  
actively supervise the activities required or authorized under 48035  
sections 4301.10 and 4301.17 of the Revised Code as those sections 48036  
exist on ~~the effective date of this section~~ September 29, 2011, 48037  
including, but not limited to, controlling the traffic in 48038  
intoxicating liquor in this state and fixing the wholesale and 48039  
retail prices at which the various classes, varieties, and brands 48040  
of spirituous liquor are sold. 48041

(F) The transfer agreement shall require JobsOhio to pay for 48042  
the operations of the division of liquor control with regard to 48043  
the spirituous liquor merchandising operations of the division. 48044  
The payments from JobsOhio shall be deposited into the state 48045  
treasury to the credit of the liquor ~~control~~ operating services 48046  
fund created in section 4301.12 of the Revised Code, which is 48047  
hereby created in the state treasury. The fund shall be used to 48048  
pay for the operations of the division specified in this division. 48049

(G) The transaction and transfer provided for under this 48050  
section shall comply with all applicable provisions of the Ohio 48051  
Constitution. 48052

**Sec. 4501.01.** As used in this chapter and Chapters 4503., 48053  
4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the 48054  
Revised Code, and in the penal laws, except as otherwise provided: 48055

(A) "Vehicles" means everything on wheels or runners, 48056  
including motorized bicycles, but does not mean electric personal 48057  
assistive mobility devices, vehicles that are operated exclusively 48058  
on rails or tracks or from overhead electric trolley wires, and 48059  
vehicles that belong to any police department, municipal fire 48060  
department, or volunteer fire department, or that are used by such 48061

a department in the discharge of its functions. 48062

(B) "Motor vehicle" means any vehicle, including mobile homes 48063  
and recreational vehicles, that is propelled or drawn by power 48064  
other than muscular power or power collected from overhead 48065  
electric trolley wires. "Motor vehicle" does not include utility 48066  
vehicles as defined in division (VV) of this section, motorized 48067  
bicycles, road rollers, traction engines, power shovels, power 48068  
cranes, and other equipment used in construction work and not 48069  
designed for or employed in general highway transportation, 48070  
well-drilling machinery, ditch-digging machinery, farm machinery, 48071  
and trailers that are designed and used exclusively to transport a 48072  
boat between a place of storage and a marina, or in and around a 48073  
marina, when drawn or towed on a public road or highway for a 48074  
distance of no more than ten miles and at a speed of twenty-five 48075  
miles per hour or less. 48076

(C) "Agricultural tractor" and "traction engine" mean any 48077  
self-propelling vehicle that is designed or used for drawing other 48078  
vehicles or wheeled machinery, but has no provisions for carrying 48079  
loads independently of such other vehicles, and that is used 48080  
principally for agricultural purposes. 48081

(D) "Commercial tractor," except as defined in division (C) 48082  
of this section, means any motor vehicle that has motive power and 48083  
either is designed or used for drawing other motor vehicles, or is 48084  
designed or used for drawing another motor vehicle while carrying 48085  
a portion of the other motor vehicle or its load, or both. 48086

(E) "Passenger car" means any motor vehicle that is designed 48087  
and used for carrying not more than nine persons and includes any 48088  
motor vehicle that is designed and used for carrying not more than 48089  
fifteen persons in a ridesharing arrangement. 48090

(F) "Collector's vehicle" means any motor vehicle or 48091  
agricultural tractor or traction engine that is of special 48092

interest, that has a fair market value of one hundred dollars or 48093  
more, whether operable or not, and that is owned, operated, 48094  
collected, preserved, restored, maintained, or used essentially as 48095  
a collector's item, leisure pursuit, or investment, but not as the 48096  
owner's principal means of transportation. "Licensed collector's 48097  
vehicle" means a collector's vehicle, other than an agricultural 48098  
tractor or traction engine, that displays current, valid license 48099  
tags issued under section 4503.45 of the Revised Code, or a 48100  
similar type of motor vehicle that displays current, valid license 48101  
tags issued under substantially equivalent provisions in the laws 48102  
of other states. 48103

(G) "Historical motor vehicle" means any motor vehicle that 48104  
is over twenty-five years old and is owned solely as a collector's 48105  
item and for participation in club activities, exhibitions, tours, 48106  
parades, and similar uses, but that in no event is used for 48107  
general transportation. 48108

(H) "Noncommercial motor vehicle" means any motor vehicle, 48109  
including a farm truck as defined in section 4503.04 of the 48110  
Revised Code, that is designed by the manufacturer to carry a load 48111  
of no more than one ton and is used exclusively for purposes other 48112  
than engaging in business for profit. 48113

(I) "Bus" means any motor vehicle that has motor power and is 48114  
designed and used for carrying more than nine passengers, except 48115  
any motor vehicle that is designed and used for carrying not more 48116  
than fifteen passengers in a ridesharing arrangement. 48117

(J) "Commercial car" or "truck" means any motor vehicle that 48118  
has motor power and is designed and used for carrying merchandise 48119  
or freight, or that is used as a commercial tractor. 48120

(K) "Bicycle" means every device, other than a tricycle that 48121  
is designed solely for use as a play vehicle by a child, that is 48122  
propelled solely by human power upon which any person may ride, 48123

and that has two tandem wheels, or one wheel in front and two 48124  
wheels in the rear, or two wheels in the front and one wheel in 48125  
the rear, any of which is more than fourteen inches in diameter. 48126

(L) "Motorized bicycle" means any vehicle that either has two 48127  
tandem wheels or one wheel in the front and two wheels in the 48128  
rear, that is capable of being pedaled, and that is equipped with 48129  
a helper motor of not more than fifty cubic centimeters piston 48130  
displacement that produces no more than one brake horsepower and 48131  
is capable of propelling the vehicle at a speed of no greater than 48132  
twenty miles per hour on a level surface. 48133

(M) "Trailer" means any vehicle without motive power that is 48134  
designed or used for carrying property or persons wholly on its 48135  
own structure and for being drawn by a motor vehicle, and includes 48136  
any such vehicle that is formed by or operated as a combination of 48137  
a semitrailer and a vehicle of the dolly type such as that 48138  
commonly known as a trailer dolly, a vehicle used to transport 48139  
agricultural produce or agricultural production materials between 48140  
a local place of storage or supply and the farm when drawn or 48141  
towed on a public road or highway at a speed greater than 48142  
twenty-five miles per hour, and a vehicle that is designed and 48143  
used exclusively to transport a boat between a place of storage 48144  
and a marina, or in and around a marina, when drawn or towed on a 48145  
public road or highway for a distance of more than ten miles or at 48146  
a speed of more than twenty-five miles per hour. "Trailer" does 48147  
not include a manufactured home or travel trailer. 48148

(N) "Noncommercial trailer" means any trailer, except a 48149  
travel trailer or trailer that is used to transport a boat as 48150  
described in division (B) of this section, but, where applicable, 48151  
includes a vehicle that is used to transport a boat as described 48152  
in division (M) of this section, that has a gross weight of no 48153  
more than ten thousand pounds, and that is used exclusively for 48154  
purposes other than engaging in business for a profit, such as the 48155

transportation of personal items for personal or recreational 48156  
purposes. 48157

(O) "Mobile home" means a building unit or assembly of closed 48158  
construction that is fabricated in an off-site facility, is more 48159  
than thirty-five body feet in length or, when erected on site, is 48160  
three hundred twenty or more square feet, is built on a permanent 48161  
chassis, is transportable in one or more sections, and does not 48162  
qualify as a manufactured home as defined in division (C)(4) of 48163  
section 3781.06 of the Revised Code or as an industrialized unit 48164  
as defined in division (C)(3) of section 3781.06 of the Revised 48165  
Code. 48166

(P) "Semitrailer" means any vehicle of the trailer type that 48167  
does not have motive power and is so designed or used with another 48168  
and separate motor vehicle that in operation a part of its own 48169  
weight or that of its load, or both, rests upon and is carried by 48170  
the other vehicle furnishing the motive power for propelling 48171  
itself and the vehicle referred to in this division, and includes, 48172  
for the purpose only of registration and taxation under those 48173  
chapters, any vehicle of the dolly type, such as a trailer dolly, 48174  
that is designed or used for the conversion of a semitrailer into 48175  
a trailer. 48176

(Q) "Recreational vehicle" means a vehicular portable 48177  
structure that meets all of the following conditions: 48178

(1) It is designed for the sole purpose of recreational 48179  
travel. 48180

(2) It is not used for the purpose of engaging in business 48181  
for profit. 48182

(3) It is not used for the purpose of engaging in intrastate 48183  
commerce. 48184

(4) It is not used for the purpose of commerce as defined in 48185  
49 C.F.R. 383.5, as amended. 48186

(5) It is not regulated by the public utilities commission 48187  
pursuant to Chapter ~~4919~~ 4905., 4921., or 4923. of the Revised 48188  
Code. 48189

(6) It is classed as one of the following: 48190

(a) "Travel trailer" means a nonself-propelled recreational 48191  
vehicle that does not exceed an overall length of thirty-five 48192  
feet, exclusive of bumper and tongue or coupling, and contains 48193  
less than three hundred twenty square feet of space when erected 48194  
on site. "Travel trailer" includes a tent-type fold-out camping 48195  
trailer as defined in section 4517.01 of the Revised Code. 48196

(b) "Motor home" means a self-propelled recreational vehicle 48197  
that has no fifth wheel and is constructed with permanently 48198  
installed facilities for cold storage, cooking and consuming of 48199  
food, and for sleeping. 48200

(c) "Truck camper" means a nonself-propelled recreational 48201  
vehicle that does not have wheels for road use and is designed to 48202  
be placed upon and attached to a motor vehicle. "Truck camper" 48203  
does not include truck covers that consist of walls and a roof, 48204  
but do not have floors and facilities enabling them to be used as 48205  
a dwelling. 48206

(d) "Fifth wheel trailer" means a vehicle that is of such 48207  
size and weight as to be movable without a special highway permit, 48208  
that has a gross trailer area of four hundred square feet or less, 48209  
that is constructed with a raised forward section that allows a 48210  
bi-level floor plan, and that is designed to be towed by a vehicle 48211  
equipped with a fifth-wheel hitch ordinarily installed in the bed 48212  
of a truck. 48213

(e) "Park trailer" means a vehicle that is commonly known as 48214  
a park model recreational vehicle, meets the American national 48215  
standard institute standard A119.5 (1988) for park trailers, is 48216  
built on a single chassis, has a gross trailer area of four 48217

hundred square feet or less when set up, is designed for seasonal 48218  
or temporary living quarters, and may be connected to utilities 48219  
necessary for the operation of installed features and appliances. 48220

(R) "Pneumatic tires" means tires of rubber and fabric or 48221  
tires of similar material, that are inflated with air. 48222

(S) "Solid tires" means tires of rubber or similar elastic 48223  
material that are not dependent upon confined air for support of 48224  
the load. 48225

(T) "Solid tire vehicle" means any vehicle that is equipped 48226  
with two or more solid tires. 48227

(U) "Farm machinery" means all machines and tools that are 48228  
used in the production, harvesting, and care of farm products, and 48229  
includes trailers that are used to transport agricultural produce 48230  
or agricultural production materials between a local place of 48231  
storage or supply and the farm, agricultural tractors, threshing 48232  
machinery, hay-baling machinery, corn shellers, hammermills, and 48233  
machinery used in the production of horticultural, agricultural, 48234  
and vegetable products. 48235

(V) "Owner" includes any person or firm, other than a 48236  
manufacturer or dealer, that has title to a motor vehicle, except 48237  
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 48238  
includes in addition manufacturers and dealers. 48239

(W) "Manufacturer" and "dealer" include all persons and firms 48240  
that are regularly engaged in the business of manufacturing, 48241  
selling, displaying, offering for sale, or dealing in motor 48242  
vehicles, at an established place of business that is used 48243  
exclusively for the purpose of manufacturing, selling, displaying, 48244  
offering for sale, or dealing in motor vehicles. A place of 48245  
business that is used for manufacturing, selling, displaying, 48246  
offering for sale, or dealing in motor vehicles shall be deemed to 48247  
be used exclusively for those purposes even though snowmobiles or 48248

all-purpose vehicles are sold or displayed for sale thereat, even 48249  
though farm machinery is sold or displayed for sale thereat, or 48250  
even though repair, accessory, gasoline and oil, storage, parts, 48251  
service, or paint departments are maintained thereat, or, in any 48252  
county having a population of less than seventy-five thousand at 48253  
the last federal census, even though a department in a place of 48254  
business is used to dismantle, salvage, or rebuild motor vehicles 48255  
by means of used parts, if such departments are operated for the 48256  
purpose of furthering and assisting in the business of 48257  
manufacturing, selling, displaying, offering for sale, or dealing 48258  
in motor vehicles. Places of business or departments in a place of 48259  
business used to dismantle, salvage, or rebuild motor vehicles by 48260  
means of using used parts are not considered as being maintained 48261  
for the purpose of assisting or furthering the manufacturing, 48262  
selling, displaying, and offering for sale or dealing in motor 48263  
vehicles. 48264

(X) "Operator" includes any person who drives or operates a 48265  
motor vehicle upon the public highways. 48266

(Y) "Chauffeur" means any operator who operates a motor 48267  
vehicle, other than a taxicab, as an employee for hire; or any 48268  
operator whether or not the owner of a motor vehicle, other than a 48269  
taxicab, who operates such vehicle for transporting, for gain, 48270  
compensation, or profit, either persons or property owned by 48271  
another. Any operator of a motor vehicle who is voluntarily 48272  
involved in a ridesharing arrangement is not considered an 48273  
employee for hire or operating such vehicle for gain, 48274  
compensation, or profit. 48275

(Z) "State" includes the territories and federal districts of 48276  
the United States, and the provinces of Canada. 48277

(AA) "Public roads and highways" for vehicles includes all 48278  
public thoroughfares, bridges, and culverts. 48279

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing 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 48310  
vehicles, vehicles displaying restricted plates, city pick-up and 48311  
delivery vehicles, buses used for the transportation of chartered 48312  
parties, or vehicles owned and operated by the United States, this 48313  
state, or any political subdivisions thereof. 48314

(GG) "Chartered party" means a group of persons who contract 48315  
as a group to acquire the exclusive use of a passenger-carrying 48316  
motor vehicle at a fixed charge for the vehicle in accordance with 48317  
the carrier's tariff, lawfully on file with the United States 48318  
department of transportation, for the purpose of group travel to a 48319  
specified destination or for a particular itinerary, either agreed 48320  
upon in advance or modified by the chartered group after having 48321  
left the place of origin. 48322

(HH) "International registration plan" means a reciprocal 48323  
agreement of member jurisdictions that is endorsed by the American 48324  
association of motor vehicle administrators, and that promotes and 48325  
encourages the fullest possible use of the highway system by 48326  
authorizing apportioned registration of fleets of vehicles and 48327  
recognizing registration of vehicles apportioned in member 48328  
jurisdictions. 48329

(II) "Restricted plate" means a license plate that has a 48330  
restriction of time, geographic area, mileage, or commodity, and 48331  
includes license plates issued to farm trucks under division (J) 48332  
of section 4503.04 of the Revised Code. 48333

(JJ) "Gross vehicle weight," with regard to any commercial 48334  
car, trailer, semitrailer, or bus that is taxed at the rates 48335  
established under section 4503.042 or 4503.65 of the Revised Code, 48336  
means the unladen weight of the vehicle fully equipped plus the 48337  
maximum weight of the load to be carried on the vehicle. 48338

(KK) "Combined gross vehicle weight" with regard to any 48339  
combination of a commercial car, trailer, and semitrailer, that is 48340

taxed at the rates established under section 4503.042 or 4503.65 48341  
of the Revised Code, means the total unladen weight of the 48342  
combination of vehicles fully equipped plus the maximum weight of 48343  
the load to be carried on that combination of vehicles. 48344

(LL) "Chauffeured limousine" means a motor vehicle that is 48345  
designed to carry nine or fewer passengers and is operated for 48346  
hire on an hourly basis pursuant to a prearranged contract for the 48347  
transportation of passengers on public roads and highways along a 48348  
route under the control of the person hiring the vehicle and not 48349  
over a defined and regular route. "Prearranged contract" means an 48350  
agreement, made in advance of boarding, to provide transportation 48351  
from a specific location in a chauffeured limousine at a fixed 48352  
rate per hour or trip. "Chauffeured limousine" does not include 48353  
any vehicle that is used exclusively in the business of funeral 48354  
directing. 48355

(MM) "Manufactured home" has the same meaning as in division 48356  
(C)(4) of section 3781.06 of the Revised Code. 48357

(NN) "Acquired situs," with respect to a manufactured home or 48358  
a mobile home, means to become located in this state by the 48359  
placement of the home on real property, but does not include the 48360  
placement of a manufactured home or a mobile home in the inventory 48361  
of a new motor vehicle dealer or the inventory of a manufacturer, 48362  
remanufacturer, or distributor of manufactured or mobile homes. 48363

(OO) "Electronic" includes electrical, digital, magnetic, 48364  
optical, electromagnetic, or any other form of technology that 48365  
entails capabilities similar to these technologies. 48366

(PP) "Electronic record" means a record generated, 48367  
communicated, received, or stored by electronic means for use in 48368  
an information system or for transmission from one information 48369  
system to another. 48370

(QQ) "Electronic signature" means a signature in electronic 48371

form attached to or logically associated with an electronic 48372  
record. 48373

(RR) "Financial transaction device" has the same meaning as 48374  
in division (A) of section 113.40 of the Revised Code. 48375

(SS) "Electronic motor vehicle dealer" means a motor vehicle 48376  
dealer licensed under Chapter 4517. of the Revised Code whom the 48377  
registrar of motor vehicles determines meets the criteria 48378  
designated in section 4503.035 of the Revised Code for electronic 48379  
motor vehicle dealers and designates as an electronic motor 48380  
vehicle dealer under that section. 48381

(TT) "Electric personal assistive mobility device" means a 48382  
self-balancing two non-tandem wheeled device that is designed to 48383  
transport only one person, has an electric propulsion system of an 48384  
average of seven hundred fifty watts, and when ridden on a paved 48385  
level surface by an operator who weighs one hundred seventy pounds 48386  
has a maximum speed of less than twenty miles per hour. 48387

(UU) "Limited driving privileges" means the privilege to 48388  
operate a motor vehicle that a court grants under section 4510.021 48389  
of the Revised Code to a person whose driver's or commercial 48390  
driver's license or permit or nonresident operating privilege has 48391  
been suspended. 48392

(VV) "Utility vehicle" means a self-propelled vehicle 48393  
designed with a bed, principally for the purpose of transporting 48394  
material or cargo in connection with construction, agricultural, 48395  
forestry, grounds maintenance, lawn and garden, materials 48396  
handling, or similar activities. "Utility vehicle" includes a 48397  
vehicle with a maximum attainable speed of twenty miles per hour 48398  
or less that is used exclusively within the boundaries of state 48399  
parks by state park employees or volunteers for the operation or 48400  
maintenance of state park facilities. 48401

**Sec. 4501.06.** The taxes, fees, and fines levied, charged, or 48402  
referred to in division (O) of section 4503.04, division (E) of 48403  
section 4503.042, division (B) of section 4503.07, division (C)(1) 48404  
of section 4503.10, division (D) of section 4503.182, division (A) 48405  
of section 4503.19, division (D)(2) of section 4507.24, division 48406  
(A) of section 4508.06, and sections 4503.40, 4503.42, 4505.11, 48407  
4505.111, 4506.08, 4506.09, 4507.23, 4508.05, ~~4923.12~~, and 5502.12 48408  
of the Revised Code, and the taxes charged in section 4503.65 that 48409  
are distributed in accordance with division (A)(2) of section 48410  
4501.044 of the Revised Code unless otherwise designated by law, 48411  
shall be deposited in the state treasury to the credit of the 48412  
state highway safety fund, which is hereby created, and shall, 48413  
after receipt of certifications from the commissioners of the 48414  
sinking fund certifying that there are sufficient moneys to the 48415  
credit of the highway obligations bond retirement fund created by 48416  
section 5528.32 of the Revised Code to meet in full all payments 48417  
of interest, principal, and charges for the retirement of highway 48418  
obligations issued pursuant to Section 2i of Article VIII, Ohio 48419  
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 48420  
due and payable during the current calendar year, be used for the 48421  
purpose of enforcing and paying the expenses of administering the 48422  
law relative to the registration and operation of motor vehicles 48423  
on the public roads or highways. Amounts credited to the fund may 48424  
also be used to pay the expenses of administering and enforcing 48425  
the laws under which such fees were collected. All investment 48426  
earnings of the state highway safety fund shall be credited to the 48427  
fund. 48428

**Sec. 4501.271.** (A)(1) A peace officer, correctional employee, 48429  
or youth services employee may file a written request with the 48430  
bureau of motor vehicles to do either or both of the following: 48431  
48432

(a) Prohibit disclosure of the officer's or employee's residence address as contained in motor vehicle records of the bureau;

(b) Provide a business address to be displayed on the officer's or employee's driver's license or certificate of registration, or both.

(2) The officer or employee shall file the request described in division (A)(1) of this section on a form provided by the registrar of motor vehicles and shall provide any documentary evidence verifying the person's status as a peace officer, correctional employee, or youth services employee and the officer's or employee's business address that the registrar requires pursuant to division (G) of this section.

(B)(1) Except as provided in division (C) of this section, if a peace officer, correctional employee, or youth services employee has filed a request under division (A) of this section, neither the registrar nor an employee or contractor of the bureau of motor vehicles shall knowingly disclose the residence address of the officer or employee that the bureau obtained in connection with a motor vehicle record.

(2) In accordance with section 149.43 of the Revised Code, the registrar or an employee or contractor of the bureau shall make available for inspection or copying a motor vehicle record of a peace officer, correctional employee, or youth services employee who has filed a request under division (A) of this section if the record is a public record under that section, but shall obliterate the residence address of the officer or employee from the record before making the record available for inspection or copying. The business address of the officer or employee may be made available in response to a valid request under section 149.43 of the Revised Code.

(C) Notwithstanding division (B)(2) of section 4501.27 of the Revised Code, the registrar or an employee or contractor of the bureau may disclose the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A) of this section only in accordance with division (B)(1) of section 4501.27 of the Revised Code or pursuant to a court order.

(D) If a peace officer, correctional employee, or youth services employee files a request under division (A)(1)(b) of this section, the officer shall still provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with sections 4503.101 and 4507.09 of the Revised Code, an officer or employee shall notify the registrar of any change in the officer's or employee's residence within ten days after the change occurs.

(E) A certificate of registration issued to a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer. Notwithstanding section 4507.13 of the Revised Code, a driver's license issued to an officer or employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer or employee.

(F) The registrar may utilize the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section in carrying out the functions of the bureau of motor vehicles, including determining the district of registration for any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, determining whether tailpipe emissions inspections are required, and financial responsibility verification.

(G) The registrar shall adopt rules governing a request for confidentiality of a peace officer's, correctional employee's, or youth services employee's residence address or use of a business address, including the documentary evidence required to verify the person's status as a peace officer, correctional employee, or youth services employee, the length of time that the request will be valid, procedures for ensuring that the bureau of motor vehicles receives notice of any change in a person's status as a peace officer, correctional employee, or youth services employee, and any other procedures the registrar considers necessary. The rules of the registrar may require an officer or employee to surrender any certificate of registration and any driver's license bearing the business address of the officer or employee and, upon payment of any applicable fees, to receive a certificate of registration and license bearing the officer's or employee's residence address, whenever the officer or employee no longer is associated with that business address.

(H) As used in this section:

(1) "Motor vehicle record" has the same meaning as in section 4501.27 of the Revised Code.

(2) "Peace officer" means those persons described in division (A)(1), (2), (4), (5), (6), (9), (10), (12), (13), or (15) of section 109.71 of the Revised Code, an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code, the house sergeant at arms appointed under division (B)(1) of section 101.311 of the Revised Code, and any assistant sergeant at arms appointed under division (C)(1) of

section 101.311 of the Revised Code, the senate sergeant at arms, 48528  
and an assistant senate sergeant at arms. "Peace officer" includes 48529  
state highway patrol troopers but does not include the sheriff of 48530  
a county or a supervisory employee who, in the absence of the 48531  
sheriff, is authorized to stand in for, exercise the authority of, 48532  
and perform the duties of the sheriff. 48533

(3) "Correctional employee" and "youth services employee" 48534  
have the same meanings as in section 149.43 of the Revised Code. 48535

**Sec. 4503.031.** (A)(1) If the registrar of motor vehicles 48536  
determines that space is available at a deputy registrar's office, 48537  
the clerk of the court of common pleas in the county where the 48538  
deputy is located shall be given the opportunity to use the space 48539  
for the purpose of carrying out the clerk's duties related to the 48540  
titling of motor vehicles. Each clerk of the court of common pleas 48541  
using space in a deputy registrar's office shall remit to the 48542  
deputy a rental fee equal to the percentage of space occupied by 48543  
the clerk in the deputy's office multiplied by the rental fee or 48544  
mortgage cost paid for the entire deputy registrar's office plus a 48545  
pro rata share of all utility costs. 48546

(2) If the clerk of the court of common pleas determines that 48547  
space is available at any location at which the clerk has an 48548  
office, the clerk shall inform the registrar of that fact and 48549  
shall provide the registrar with all pertinent information about 48550  
the available space. After giving due consideration to the 48551  
locations of deputy registrar offices existing in the county in 48552  
which the clerk of the court of common pleas is located, the 48553  
registrar shall inform the appropriate deputy registrars, if any, 48554  
of the available space of the clerk of the court of common pleas. 48555  
Each such deputy registrar shall be given the opportunity to use 48556  
the space for the purpose of carrying out the deputy registrar's 48557  
duties. Each deputy registrar using space in the office of the 48558

clerk of a court of common pleas shall remit to the clerk a rental 48559  
fee equal to the percentage of space occupied by the deputy 48560  
registrar in the clerk's office multiplied by the rental fee or 48561  
mortgage cost, if any, paid for the entire clerk's office plus a 48562  
pro rata share of all utility costs. 48563

If no current deputy registrar elects to utilize the 48564  
available space of the clerk of the court of common pleas, the 48565  
registrar shall inform all persons who express an interest to the 48566  
registrar in becoming a deputy registrar in that county of the 48567  
available space of the clerk if the space in fact continues to be 48568  
available. 48569

(3) A clerk of the court of common pleas and a deputy 48570  
registrar may elect to occupy a location at which neither the 48571  
clerk nor the deputy currently is an occupant. Any such 48572  
arrangement is subject to the approval of the registrar, who shall 48573  
give due consideration to all issues and aspects of the proposed 48574  
arrangement, including security at the location and service to the 48575  
public. 48576

(B) ~~The~~ When possible, as determined by the director of 48577  
public safety and the registrar ~~and the superintendent of the~~ 48578  
~~state highway patrol shall cooperate to the fullest extent~~ 48579  
~~possible in locating,~~ a driver's license examination station shall 48580  
be located at or near a deputy registrar's office. For each 48581  
driver's license examination station located at a deputy 48582  
registrar's office, the ~~superintendent of the state highway patrol~~ 48583  
director shall remit to the deputy a rental fee equal to the 48584  
percentage of space occupied for the driver's license examination 48585  
station multiplied by the rental fee or mortgage cost paid for the 48586  
entire deputy registrar's office plus a pro rata share of all 48587  
utility costs. 48588

(C) During the regular business hours of deputy registrars, 48589  
the registrar shall keep the central office open and sufficiently 48590

staffed to be able to respond to the technical needs of the 48591  
deputies. 48592

(D) The registrar shall adopt rules to promote public 48593  
information regarding motor vehicle registration. The rules shall 48594  
include: 48595

(1) The operation by the registrar, during the regular 48596  
business hours of deputy registrars, of a toll-free telephone 48597  
number to give information and receive complaints; 48598

(2) The listing by the registrar, of each deputy registrar, 48599  
together with the toll-free telephone number required under 48600  
division (D)(1) of this section, in the local business and 48601  
advertising telephone directory for the area served by the deputy, 48602  
under the heading of the bureau of motor vehicles. 48603

**Sec. 4503.061.** (A) All manufactured and mobile homes shall be 48604  
listed on either the real property tax list or the manufactured 48605  
home tax list of the county in which the home has situs. Each 48606  
owner shall follow the procedures in this section to identify the 48607  
home to the county auditor of the county containing the taxing 48608  
district in which the home has situs so that the auditor may place 48609  
the home on the appropriate tax list. 48610

(B) When a manufactured or mobile home first acquires situs 48611  
in this state and is subject to real property taxation pursuant to 48612  
division (B)(1) or (2) of section 4503.06 of the Revised Code, the 48613  
owner shall present to the auditor of the county containing the 48614  
taxing district in which the home has its situs the certificate of 48615  
title for the home, together with proof that all taxes due have 48616  
been paid and proof that a relocation notice was obtained for the 48617  
home if required under this section. Upon receiving the 48618  
certificate of title and the required proofs, the auditor shall 48619  
place the home on the real property tax list and proceed to treat 48620  
the home as other properties on that list. After the auditor has 48621

placed the home on the tax list of real and public utility 48622  
property, the auditor shall deliver the certificate of title to 48623  
the clerk of the court of common pleas that issued it pursuant to 48624  
section 4505.11 of the Revised Code, and the clerk shall 48625  
inactivate the certificate of title. 48626

(C)(1) When a manufactured or mobile home subject to a 48627  
manufactured home tax is relocated to or first acquires situs in 48628  
any county that has adopted a permanent manufactured home 48629  
registration system, as provided in division (F) of this section, 48630  
the owner, within thirty days after the home is relocated or first 48631  
acquires situs under section 4503.06 of the Revised Code, shall 48632  
register the home with the county auditor of the county containing 48633  
the taxing district in which the home has its situs. For the first 48634  
registration in each county of situs, the owner or vendee in 48635  
possession shall present to the county auditor an Ohio certificate 48636  
of title, certified copy of the certificate of title, or 48637  
memorandum certificate of title as such are required by law, and 48638  
proof, as required by the county auditor, that the home, if it has 48639  
previously been occupied and is being relocated, has been 48640  
previously registered, that all taxes due and required to be paid 48641  
under division (H)(1) of this section before a relocation notice 48642  
may be issued have been paid, and that a relocation notice was 48643  
obtained for the home if required by division (H) of this section. 48644  
If the owner or vendee does not possess the Ohio certificate of 48645  
title, certified copy of the certificate of title, or memorandum 48646  
certificate of title at the time the owner or vendee first 48647  
registers the home in a county, the county auditor shall register 48648  
the home without presentation of the document, but the owner or 48649  
vendee shall present the certificate of title, certified copy of 48650  
the certificate of title, or memorandum certificate of title to 48651  
the county auditor within fourteen days after the owner or vendee 48652  
obtains possession of the document. 48653

(2) When a manufactured or mobile home is registered for the first time in a county and when the total tax due has been paid as required by division (F) of section 4503.06 of the Revised Code or divisions (E) and (H) of this section, the county treasurer shall note by writing or by a stamp on the certificate of title, certified copy of certificate of title, or memorandum certificate of title that the home has been registered and that the taxes due, if any, have been paid for the preceding five years and for the current year. The treasurer shall then issue a certificate evidencing registration and a decal to be displayed on the street side of the home. The certificate is valid in any county in this state during the year for which it is issued.

(3) For each year thereafter, the county treasurer shall issue a tax bill stating the amount of tax due under section 4503.06 of the Revised Code, as provided in division (D)(6) of that section. When the total tax due has been paid as required by division (F) of that section, the county treasurer shall issue a certificate evidencing registration that shall be valid in any county in this state during the year for which the certificate is issued.

(4) The permanent decal issued under this division is valid during the period of ownership, except that when a manufactured home is relocated in another county the owner shall apply for a new registration as required by this section and section 4503.06 of the Revised Code.

(D)(1) All owners of manufactured or mobile homes subject to the manufactured home tax being relocated to or having situs in a county that has not adopted a permanent registration system, as provided in division (F) of this section, shall register the home within thirty days after the home is relocated or first acquires situs under section 4503.06 of the Revised Code and thereafter shall annually register the home with the county auditor of the

county containing the taxing district in which the home has its 48686  
situs. 48687

(2) Upon the annual registration, the county treasurer shall 48688  
issue a tax bill stating the amount of annual manufactured home 48689  
tax due under section 4503.06 of the Revised Code, as provided in 48690  
division (D)(6) of that section. When a manufactured or mobile 48691  
home is registered and when the tax for the current one-half year 48692  
has been paid as required by division (F) of that section, the 48693  
county treasurer shall issue a certificate evidencing registration 48694  
and a decal. The certificate and decal are valid in any county in 48695  
this state during the year for which they are issued. The decal 48696  
shall be displayed on the street side of the home. 48697

(3) For the first annual registration in each county of 48698  
situs, the county auditor shall require the owner or vendee to 48699  
present an Ohio certificate of title, certified copy of the 48700  
certificate of title, or memorandum certificate of title as such 48701  
are required by law, and proof, as required by the county auditor, 48702  
that the manufactured or mobile home has been previously 48703  
registered, if such registration was required, that all taxes due 48704  
and required to be paid under division (H)(1) of this section 48705  
before a relocation notice may be issued have been paid, and that 48706  
a relocation notice was obtained for the home if required by 48707  
division (H) of this section. If the owner or vendee does not 48708  
possess the Ohio certificate of title, certified copy of the 48709  
certificate of title, or memorandum certificate of title at the 48710  
time the owner or vendee first registers the home in a county, the 48711  
county auditor shall register the home without presentation of the 48712  
document, but the owner or vendee shall present the certificate of 48713  
title, certified copy of the certificate of title, or memorandum 48714  
certificate of title to the county auditor within fourteen days 48715  
after the owner or vendee obtains possession of the document. When 48716  
the county treasurer receives the tax payment, the county 48717

treasurer shall note by writing or by a stamp on the certificate 48718  
of title, certified copy of the certificate of title, or 48719  
memorandum certificate of title that the home has been registered 48720  
for the current year and that the manufactured home taxes due, if 48721  
any, have been paid for the preceding five years and for the 48722  
current year. 48723

(4) For subsequent annual registrations, the auditor may 48724  
require the owner or vendee in possession to present an Ohio 48725  
certificate of title, certified copy of the certificate of title, 48726  
or memorandum certificate of title to the county treasurer upon 48727  
payment of the manufactured home tax that is due. 48728

(E)(1) Upon the application to transfer ownership of a 48729  
manufactured or mobile home for which manufactured home taxes are 48730  
paid pursuant to division (C) of section 4503.06 of the Revised 48731  
Code the clerk of the court of common pleas shall not issue any 48732  
certificate of title that does not contain or have attached both 48733  
of the following: 48734

(a) An endorsement of the county treasurer stating that the 48735  
home has been registered for each year of ownership and that all 48736  
manufactured home taxes imposed pursuant to section 4503.06 of the 48737  
Revised Code have been paid or that no tax is due; 48738

(b) An endorsement of the county auditor that the 48739  
manufactured home transfer tax imposed pursuant to section 322.06 48740  
of the Revised Code and any fees imposed under division (G) of 48741  
section 319.54 of the Revised Code have been paid. 48742

(2) If all the taxes have not been paid, the clerk shall 48743  
notify the vendee to contact the county treasurer of the county 48744  
containing the taxing district in which the home has its situs at 48745  
the time of the proposed transfer. The county treasurer shall then 48746  
collect all the taxes that are due for the year of the transfer 48747  
and all previous years not exceeding a total of five years. The 48748

county treasurer shall distribute that part of the collection owed 48749  
to the county treasurer of other counties if the home had its 48750  
situs in another county during a particular year when the unpaid 48751  
tax became due and payable. The burden to prove the situs of the 48752  
home in the years that the taxes were not paid is on the 48753  
transferor of the home. Upon payment of the taxes, the county 48754  
auditor shall remove all remaining taxes from the manufactured 48755  
home tax list and the delinquent manufactured home tax list, and 48756  
the county treasurer shall release all liens for such taxes. The 48757  
clerk of courts shall issue a certificate of title, free and clear 48758  
of all liens for manufactured home taxes, to the transferee of the 48759  
home. 48760

(3) Once the transfer is complete and the certificate of 48761  
title has been issued, the transferee shall register the 48762  
manufactured or mobile home pursuant to division (C) or (D) of 48763  
this section with the county auditor of the county containing the 48764  
taxing district in which the home remains after the transfer or, 48765  
if the home is relocated to another county, with the county 48766  
auditor of the county to which the home is relocated. The 48767  
transferee need not pay the annual tax for the year of acquisition 48768  
if the original owner has already paid the annual tax for that 48769  
year. 48770

(F) The county auditor may adopt a permanent registration 48771  
system and issue a permanent decal with the first registration as 48772  
prescribed by the tax commissioner. 48773

(G) When any manufactured or mobile home required to be 48774  
registered by this section is not registered, the county auditor 48775  
shall impose a penalty of one hundred dollars upon the owner and 48776  
deposit the amount to the credit of the county real estate 48777  
assessment fund to be used to pay the costs of administering this 48778  
section and section 4503.06 of the Revised Code. If unpaid, the 48779  
penalty shall constitute a lien on the home and shall be added by 48780

the county auditor to the manufactured home tax list for 48781  
collection. 48782

(H)(1) Except as otherwise provided in this division, before 48783  
moving a manufactured or mobile home on public roads from one 48784  
address within this state to another address within or outside 48785  
this state, the owner of the home shall obtain a relocation 48786  
notice, as provided by this section, from the auditor of the 48787  
county in which the home is located if the home is currently 48788  
subject to taxation pursuant to section 4503.06 of the Revised 48789  
Code. The auditor shall charge five dollars for the notice, and 48790  
deposit the amount to the credit of the county real estate 48791  
assessment fund to be used to pay the costs of administering this 48792  
section and section 4503.06 of the Revised Code. The auditor shall 48793  
not issue a relocation notice unless all taxes owed on the home 48794  
under section 4503.06 of the Revised Code that were first charged 48795  
to the home during the period of ownership of the owner seeking 48796  
the relocation notice have been paid. If the home is being moved 48797  
by a new owner of the home or by a party taking repossession of 48798  
the home, the auditor shall not issue a relocation notice unless 48799  
all of the taxes due for the preceding five years and for the 48800  
current year have been paid. A relocation notice issued by a 48801  
county auditor is valid until the last day of December of the year 48802  
in which it was issued. 48803

If the home is being moved by a sheriff, police officer, 48804  
constable, bailiff, or manufactured home park operator, as defined 48805  
in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of 48806  
any of these persons, for purposes of removal from a manufactured 48807  
home park and storage, sale, or destruction under section 1923.14 48808  
of the Revised Code, the auditor shall issue a relocation notice 48809  
without requiring payment of any taxes owed on the home under 48810  
section 4503.06 of the Revised Code. 48811

(2) If a manufactured or mobile home is not yet subject to 48812

taxation under section 4503.06 of the Revised Code, the owner of 48813  
the home shall obtain a relocation notice from the dealer of the 48814  
home. Within thirty days after the manufactured or mobile home is 48815  
purchased, the dealer of the home shall provide the auditor of the 48816  
county in which the home is to be located written notice of the 48817  
name of the purchaser of the home, the registration number or 48818  
vehicle identification number of the home, and the address or 48819  
location to which the home is to be moved. The county auditor 48820  
shall provide to each manufactured and mobile home dealer, without 48821  
charge, a supply of relocation notices to be distributed to 48822  
purchasers pursuant to this section. 48823

(3) The notice shall be in the form of a one-foot square 48824  
yellow sign with the words "manufactured home relocation notice" 48825  
printed prominently on it. The name of the owner of the home, the 48826  
home's registration number or vehicle identification number, the 48827  
county and the address or location to which the home is being 48828  
moved, and the county in which the notice is issued shall also be 48829  
entered on the notice. 48830

(4) The relocation notice must be attached to the rear of the 48831  
home when the home is being moved on a public road. Except as 48832  
provided in divisions (H)(1) and (5) of this section, no person 48833  
shall drive a motor vehicle moving a manufactured or mobile home 48834  
on a public road from one address to another address within this 48835  
state unless a relocation notice is attached to the rear of the 48836  
home. 48837

(5) If the county auditor determines that a manufactured or 48838  
mobile home has been moved without a relocation notice as required 48839  
under this division, the auditor shall impose a penalty of one 48840  
hundred dollars upon the owner of the home and upon the person who 48841  
moved the home and deposit the amount to the credit of the county 48842  
real estate assessment fund to pay the costs of administering this 48843  
section and section 4503.06 of the Revised Code. If the home was 48844

relocated from one county in this state to another county in this 48845  
state and the county auditor of the county to which the home was 48846  
relocated imposes the penalty, that county auditor, upon 48847  
collection of the penalty, shall cause an amount equal to the 48848  
penalty to be transmitted from the county real estate assessment 48849  
fund to the county auditor of the county from which the home was 48850  
relocated, who shall deposit the amount to the credit of the 48851  
county real estate assessment fund. If the penalty on the owner is 48852  
unpaid, the penalty shall constitute a lien on the home and the 48853  
auditor shall add the penalty to the manufactured home tax list 48854  
for collection. If the county auditor determines that a dealer 48855  
that has sold a manufactured or mobile home has failed to timely 48856  
provide the information required under this division, the auditor 48857  
shall impose a penalty upon the dealer in the amount of one 48858  
hundred dollars. The penalty shall be credited to the county real 48859  
estate assessment fund and used to pay the costs of administering 48860  
this section and section 4503.06 of the Revised Code. 48861

(I) Whoever violates division (H)(4) of this section is 48862  
guilty of a minor misdemeanor. 48863

**Sec. 4503.062.** (A) Every operator of a manufactured home 48864  
court, or manufactured home park, as defined in section ~~3733.01~~ 48865  
4781.01 of the Revised Code, or when there is no operator, every 48866  
owner of property used for such purposes on which three or more 48867  
manufactured or mobile homes are located, shall keep a register of 48868  
all manufactured and mobile homes that make use of the court, 48869  
park, or property. The register shall contain all of the 48870  
following: 48871

(1) The name of the owner and all inhabitants of each home; 48872

(2) The ages of all inhabitants of each home; 48873

(3) The permanent and temporary post office addresses of all 48874  
inhabitants of each home; 48875

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| (4) The license number of each home;   | 48876 |
| (5) The state issuing each such license;   | 48877 |
| (6) The date of arrival and of departure of each home;                               | 48878 |
| (7) The make and model of each home, if known and if either                          | 48879 |
| of the following applies:  | 48880 |
| (a) The home enters the court, park, or property on or after                         | 48881 |
| January 1, 2003.   | 48882 |
| (b) Ownership of the home in the court or park, or on the                            | 48883 |
| property, is transferred on or after January 1, 2003.                                | 48884 |
| (B) The register shall be open to inspection by the county                           | 48885 |
| auditor, the county treasurer, agents of the auditor or treasurer,                   | 48886 |
| and all law enforcement agencies at all times.                                       | 48887 |
| (C) Any person who fails to comply with this section shall be                        | 48888 |
| fined not less than twenty-five nor more than one hundred dollars.                   | 48889 |
| <b>Sec. 4503.49.</b> (A) As used in this section, "ambulance,"                       | 48890 |
| "ambulette," "emergency medical service organization,"                               | 48891 |
| "nonemergency medical service organization," and "nontransport                       | 48892 |
| vehicle" have the same meanings as in section 4766.01 of the                         | 48893 |
| Revised Code.  | 48894 |
| (B) Each private emergency medical service organization and                          | 48895 |
| each private nonemergency medical service organization shall apply                   | 48896 |
| to the registrar of motor vehicles for the registration of any                       | 48897 |
| ambulance, ambulette, or nontransport vehicle it owns or leases.                     | 48898 |
| The application shall be accompanied by a copy of the certificate                    | 48899 |
| of licensure issued to the organization by the <del>Ohio</del> <u>state board of</u> | 48900 |
| <u>emergency medical, fire, and transportation board services</u> and the            | 48901 |
| following fees:  | 48902 |
| (1) The regular license tax as prescribed under section                              | 48903 |
| 4503.04 of the Revised Code;   | 48904 |

(2) Any local license tax levied under Chapter 4504. of the Revised Code; 48905  
48906

(3) An additional fee of seven dollars and fifty cents. The additional fee shall be for the purpose of compensating the bureau of motor vehicles for additional services required to be performed under this section and shall be transmitted by the registrar to the treasurer of state for deposit in the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code. 48907  
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(C) On receipt of a complete application, the registrar shall issue to the applicant the appropriate certificate of registration for the vehicle and do one of the following: 48913  
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(1) Issue a set of license plates with a validation sticker and a set of stickers to be attached to the plates as an identification of the vehicle's classification as an ambulance, ambulette, or nontransport vehicle; 48916  
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(2) Issue a validation sticker alone when so required by section 4503.191 of the Revised Code. 48920  
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**Sec. 4503.81.** As used in the bus taxation proration and reciprocity agreement authorized by section 4503.80 of the Revised Code, with reference to Ohio, "administrator" means the registrar of motor vehicles. 48922  
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The registrar may make such exemptions from the coverage of the agreement as may be appropriate and may make such changes in methods for the reporting of any information required to be furnished to this state pursuant to the agreement as, in ~~his~~ the registrar's judgment, are suitable; provided that any such exemptions or changes shall not be contrary to the purposes set forth in article I of the agreement and shall be made in order to permit the continuance of uniformity of practice among the contracting states with respect to buses. Any such exemption or 48926  
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change shall be made by rule adopted under Chapter 119. of the 48935  
Revised Code. Unless otherwise provided in any statute withdrawing 48936  
this state from participation in the agreement, the governor shall 48937  
be the officer to give notice of withdrawal therefrom. 48938

The fees referred to in article IV (a) of the agreement shall 48939  
include the fees provided in section 4503.04 of the Revised Code 48940  
and the annual tax provided in section ~~4921.18~~ 4921.19 of the 48941  
Revised Code. As to the state of Ohio, article V (d) shall mean 48942  
that all fleets not subject to this compact shall continue to 48943  
enjoy that reciprocity and those privileges extended by virtue of 48944  
other provisions of the Revised Code. 48945

Nothing contained herein shall be construed so as to permit a 48946  
fleet which is prorating under the laws of another state to avoid 48947  
proration under this compact. 48948

The registrar of motor vehicles shall collect a fee of two 48949  
dollars per bus for every bus registered under the provisions of 48950  
article IV (a) for administration of the agreement, in addition to 48951  
the fees provided in article IV (a). 48952

The registrar of motor vehicles shall assess the operator of 48953  
buses registered under the provisions of article IV (a) the actual 48954  
cost of ~~his~~ the registrar's auditing the accuracy of the fees paid 48955  
by the operator in accordance with article IV (a). 48956

The registrar of motor vehicles may renounce the 48957  
participation of this state in the bus taxation proration and 48958  
reciprocity agreement under article VI of section 4503.80 of the 48959  
Revised Code, ~~if he finds~~ after finding that further participation 48960  
in the compact is not in the best interests of the state. The 48961  
registrar shall set forth ~~his~~ the registrar's reasons in writing 48962  
and serve notice of intention to renounce the compact upon the 48963  
owner of each registered fleet. ~~He~~ The registrar shall then 48964  
certify the renunciation to the governor. 48965

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| Sec. 4506.01. As used in this chapter:  | 48966                            |
| (A) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath, or urine. When expressed as a percentage, it means grams of alcohol per the following:  | 48967<br>48968<br>48969          |
| (1) One hundred milliliters of whole blood, blood serum, or blood plasma;   | 48970<br>48971                   |
| (2) Two hundred ten liters of breath;   | 48972                            |
| (3) One hundred milliliters of urine.   | 48973                            |
| (B) "Commercial driver's license" means a license issued in accordance with this chapter that authorizes an individual to drive a commercial motor vehicle.   | 48974<br>48975<br>48976          |
| (C) "Commercial driver's license information system" means the information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C.A. App. 2701.                 | 48977<br>48978<br>48979<br>48980 |
| (D) Except when used in section 4506.25 of the Revised Code, "commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:                           | 48981<br>48982<br>48983<br>48984 |
| (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; | 48985<br>48986<br>48987<br>48988 |
| (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;                | 48989<br>48990<br>48991<br>48992 |
| (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen  | 48993<br>48994                   |

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| or more passengers including the driver;   | 48995   |
| (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;  | 48996<br>48997<br>48998   |
| (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;  | 48999<br>49000  |
| (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.   | 49001<br>49002<br>49003<br>49004<br>49005<br>49006                            |
| (E) "Controlled substance" means all of the following:   | 49007   |
| (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;  | 49008<br>49009<br>49010   |
| (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;  | 49011<br>49012  |
| (3) Any drug of abuse.   | 49013   |
| (F) "Conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated. | 49014<br>49015<br>49016<br>49017<br>49018<br>49019<br>49020<br>49021<br>49022 |
| (G) "Disqualification" means any of the following:   | 49023   |
| (1) The suspension, revocation, or cancellation of a person's  | 49024   |

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| privileges to operate a commercial motor vehicle;   | 49025                                     |
| (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;                        | 49026<br>49027<br>49028<br>49029          |
| (3) A determination by the federal motor carrier safety administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.  | 49030<br>49031<br>49032                   |
| (H) "Downgrade" means any of the following, as applicable:  | 49033                                     |
| (1) A change in the commercial driver's license holder's self-certified status as described in division (A)(2) of section 4506.10 of the Revised Code;  | 49034<br>49035<br>49036                   |
| (2) A change to a lesser class of vehicle;  | 49037                                     |
| (3) Removal of commercial driver's license privileges from the individual's driver's license.   | 49038<br>49039                            |
| (I) "Drive" means to drive, operate, or be in physical control of a motor vehicle.  | 49040<br>49041                            |
| (J) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.   | 49042<br>49043<br>49044                   |
| (K) "Driver's license" means a license issued by the bureau of motor vehicles that authorizes an individual to drive.   | 49045<br>49046                            |
| (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. | 49047<br>49048<br>49049<br>49050<br>49051 |
| (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.   | 49052<br>49053<br>49054                   |

(N) "Eligible unit of local government" means a village, township, or county that has a population of not more than three thousand persons according to the most recent federal census.

(O) "Employer" means any person, including the federal government, any state, and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

(P) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

(Q) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production, and livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this division and is not used in the operations of a ~~motor transportation company or private~~ motor carrier, as defined in section 4923.01 of the Revised Code.

(R) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of death.

(S) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this state, regardless of the penalty that may be

imposed. 49086

(T) "Foreign jurisdiction" means any jurisdiction other than 49087  
a state. 49088

(U) "Gross vehicle weight rating" means the value specified 49089  
by the manufacturer as the maximum loaded weight of a single or a 49090  
combination vehicle. The gross vehicle weight rating of a 49091  
combination vehicle is the gross vehicle weight rating of the 49092  
power unit plus the gross vehicle weight rating of each towed 49093  
unit. 49094

(V) "Hazardous materials" means any material that has been 49095  
designated as hazardous under 49 U.S.C. 5103 and is required to be 49096  
placarded under subpart F of 49 C.F.R. part 172 or any quantity of 49097  
a material listed as a select agent or toxin in 42 C.F.R. part 73, 49098  
as amended. 49099

(W) "Imminent hazard" means the existence of a condition that 49100  
presents a substantial likelihood that death, serious illness, 49101  
severe personal injury, or a substantial endangerment to health, 49102  
property, or the environment may occur before the reasonably 49103  
foreseeable completion date of a formal proceeding begun to lessen 49104  
the risk of that death, illness, injury, or endangerment. 49105

(X) "Medical variance" means one of the following received by 49106  
a driver from the federal motor carrier safety administration that 49107  
allows the driver to be issued a medical certificate: 49108

(1) An exemption letter permitting operation of a commercial 49109  
motor vehicle under 49 C.F.R. 381, subpart C or 49 C.F.R. 391.64; 49110

(2) A skill performance evaluation certificate permitting 49111  
operation of a commercial motor vehicle pursuant to 49 C.F.R. 49112  
391.49. 49113

(Y) "Motor vehicle" means a vehicle, machine, tractor, 49114  
trailer, or semitrailer propelled or drawn by mechanical power 49115

used on highways, except that such term does not include a 49116  
vehicle, machine, tractor, trailer, or semitrailer operated 49117  
exclusively on a rail. 49118

(Z) "Out-of-service order" means a declaration by an 49119  
authorized enforcement officer of a federal, state, local, 49120  
Canadian, or Mexican jurisdiction declaring that a driver, 49121  
commercial motor vehicle, or commercial motor carrier operation is 49122  
out of service as defined in 49 C.F.R. 390.5. 49123

(AA) "Peace officer" has the same meaning as in section 49124  
2935.01 of the Revised Code. 49125

(BB) "Portable tank" means a liquid or gaseous packaging 49126  
designed primarily to be loaded onto or temporarily attached to a 49127  
vehicle and equipped with skids, mountings, or accessories to 49128  
facilitate handling of the tank by mechanical means. 49129

(CC) "Public safety vehicle" has the same meaning as in 49130  
divisions (E)(1) and (3) of section 4511.01 of the Revised Code. 49131

(DD) "Recreational vehicle" includes every vehicle that is 49132  
defined as a recreational vehicle in section 4501.01 of the 49133  
Revised Code and is used exclusively for purposes other than 49134  
engaging in business for profit. 49135

(EE) "Residence" means any person's residence determined in 49136  
accordance with standards prescribed in rules adopted by the 49137  
registrar. 49138

(FF) "School bus" has the same meaning as in section 4511.01 49139  
of the Revised Code. 49140

(GG) "Serious traffic violation" means any of the following: 49141

(1) A conviction arising from a single charge of operating a 49142  
commercial motor vehicle in violation of any provision of section 49143  
4506.03 of the Revised Code; 49144

(2) A violation while operating a commercial motor vehicle of 49145

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| 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;   | 49146<br>49147<br>49148<br>49149                                     |
| (3) A conviction arising from the operation of any motor vehicle that involves any of the following:   | 49150<br>49151   |
| (a) A single charge of any speed in excess of the posted speed limit by fifteen miles per hour or more;  | 49152<br>49153   |
| (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;   | 49154<br>49155<br>49156  |
| (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;  | 49157<br>49158<br>49159<br>49160                                     |
| (d) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported; | 49161<br>49162<br>49163<br>49164<br>49165<br>49166<br>49167<br>49168 |
| (e) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;  | 49169<br>49170<br>49171<br>49172<br>49173<br>49174                   |
| (f) Violation of section 4511.33 or 4511.34 of the Revised Code, or any municipal ordinance or county or township resolution   | 49175<br>49176   |

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| substantially similar to either of those sections, or any          | 49177 |
| substantially similar law of another state or political            | 49178 |
| subdivision of another state;                                      | 49179 |
| (g) Violation of any other law of this state or an ordinance       | 49180 |
| or resolution relating to traffic control, other than a parking    | 49181 |
| violation, that is determined to be a serious traffic violation by | 49182 |
| the United States secretary of transportation and the director     | 49183 |
| designates as such by rule.  | 49184 |
| (HH) "State" means a state of the United States and includes       | 49185 |
| the District of Columbia.  | 49186 |
| (II) "Tank vehicle" means any commercial motor vehicle that        | 49187 |
| is designed to transport any liquid and has a maximum capacity     | 49188 |
| greater than one hundred nineteen gallons or is designed to        | 49189 |
| transport gaseous materials and has a water capacity greater than  | 49190 |
| one thousand pounds within a tank that is either permanently or    | 49191 |
| temporarily attached to the vehicle or its chassis. "Tank vehicle" | 49192 |
| does not include any of the following:                             | 49193 |
| (1) Any portable tank having a rated capacity of less than         | 49194 |
| one thousand gallons;  | 49195 |
| (2) Tanks used exclusively as a fuel tank for the motor            | 49196 |
| vehicle to which it is attached;                                   | 49197 |
| (3) An empty storage container tank that is not designed for       | 49198 |
| transportation and that is readily distinguishable from a          | 49199 |
| transportation tank;   | 49200 |
| (4) Ready-mix concrete mixers.                                     | 49201 |
| (JJ) "Tester" means a person or entity acting pursuant to a        | 49202 |
| valid agreement entered into pursuant to division (B) of section   | 49203 |
| 4506.09 of the Revised Code.                                       | 49204 |
| (KK) "Texting" means manually entering alphanumeric text           | 49205 |
| into, or reading text from, an electronic device. Texting includes | 49206 |

short message service, e-mail, instant messaging, a command or 49207  
request to access a world wide web page, or engaging in any other 49208  
form of electronic text retrieval or entry, for present or future 49209  
communication. Texting does not include the following: 49210

(1) Reading, selecting, or entering a telephone number, an 49211  
extension number, or voicemail retrieval codes and commands into 49212  
an electronic device for the purpose of initiating or receiving a 49213  
telephone call or using voice commands to initiate or receive a 49214  
telephone call; 49215

(2) Inputting, selecting, or reading information on a global 49216  
positioning system or navigation system. 49217

(LL) "Texting while driving" means texting while operating a 49218  
commercial motor vehicle, with the motor running, including while 49219  
temporarily stationary because of traffic, a traffic control 49220  
device, or other momentary delays, but does not include operating 49221  
a commercial motor vehicle with or without the motor running when 49222  
the driver has moved the vehicle to the side of, or off, a highway 49223  
and is stopped in a location where the vehicle can safely remain 49224  
stationary. 49225

(MM) "United States" means the fifty states and the District 49226  
of Columbia. 49227

(NN) "Upgrade" means a change in the class of vehicles, 49228  
endorsements, or self-certified status as described in division 49229  
(A)(2) of section 4506.10 of the Revised Code, that expands the 49230  
ability of a current commercial driver's license holder to operate 49231  
commercial motor vehicles under this chapter; 49232

(OO) "Vehicle" has the same meaning as in section 4511.01 of 49233  
the Revised Code. 49234

**Sec. 4506.03.** (A) Except as provided in divisions (B) and (C) 49235  
of this section, the following shall apply: 49236

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, a valid examiner's commercial driving permit issued under section 4506.13 of the Revised Code, a valid restricted commercial driver's license and waiver for farm-related service industries issued under section 4506.24 of the Revised Code, or a valid commercial driver's license temporary instruction permit issued by the registrar and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license until the person surrenders to the registrar of motor vehicles all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority.

(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following:

(1) A farm truck;

(2) Fire equipment for a fire department, volunteer or

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| nonvolunteer fire company, fire district, or joint fire district;   | 49268  |
| (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;   | 49269<br>49270   |
| (4) A recreational vehicle;   | 49271  |
| (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance; | 49272<br>49273<br>49274<br>49275<br>49276<br>49277<br>49278<br>49279<br>49280<br>49281 |
| (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians.   | 49282<br>49283<br>49284<br>49285   |
| (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter <del>4919</del> <u>4905.</u> , 4921., or 4923. of the Revised Code.  | 49286<br>49287<br>49288<br>49289<br>49290<br>49291                                     |
| (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;  | 49292<br>49293<br>49294<br>49295<br>49296  |
| (9) A police SWAT team vehicle;   | 49297  |

|   |   |
|---|---|
| (10) A police vehicle used to transport prisoners.  | 49298                                     |
| (C) Nothing contained in division (B)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.   | 49299<br>49300<br>49301<br>49302          |
| (D) Whoever violates this section is guilty of a misdemeanor of the first degree.   | 49303<br>49304                            |
| <b>Sec. 4506.22.</b> (A) The director of public safety and the registrar of motor vehicles, subject to approval by the director, may, in accordance with Chapter 119. of the Revised Code, adopt any rules necessary to carry out this chapter.                         | 49305<br>49306<br>49307<br>49308          |
| (B) The department of public safety may do all of the following:  | 49309<br>49310                            |
| (1) Enter into or make any agreements, arrangements, or declarations necessary to carry out this chapter;   | 49311<br>49312                            |
| (2) Charge a fee for all publications that is equal to the cost of printing the publications.   | 49313<br>49314                            |
| (C) Nothing in this chapter shall be construed to restrict the authority of the public utilities commission specified in Chapters <u>4905.</u> , 4921., and 4923. of the Revised Code regarding safety rules applicable to motor carriers.                              | 49315<br>49316<br>49317<br>49318          |
| <b>Sec. 4506.25.</b> (A) As used in this section, "commercial motor vehicle" means any self-propelled or towed vehicle used on public highways in intrastate or interstate commerce to transport passengers or property that meets any of the following specifications: | 49319<br>49320<br>49321<br>49322<br>49323 |
| (1) The vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more.  | 49324<br>49325                            |
| (2) The vehicle is designed to transport sixteen or more  | 49326                                     |

passengers, including the driver. 49327

(3) The vehicle is used in the transportation of hazardous 49328  
materials in a quantity requiring placarding under the regulations 49329  
issued by the United States secretary of transportation under the 49330  
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 49331  
U.S.C.A. 1801, as amended. 49332

(B) The registrar of motor vehicles shall disqualify any 49333  
person from operating a commercial motor vehicle who receives a 49334  
notice of a conviction for violation of an out-of-service order 49335  
issued under rules of the public utilities commission adopted 49336  
pursuant to ~~section 4919.79, 4921.04~~ Chapter 4905., 4921., or 49337  
~~4923.20~~ 4923. of the Revised Code, or a conviction for a violation 49338  
of the same or similar laws of another state or jurisdiction 49339  
applicable to vehicles in regulated commerce. 49340

**Sec. 4507.01.** (A) As used in this chapter, "motor vehicle," 49341  
"motorized bicycle," "state," "owner," "operator," "chauffeur," 49342  
and "highways" have the same meanings as in section 4501.01 of the 49343  
Revised Code. 49344

"Driver's license" means a class D license issued to any 49345  
person to operate a motor vehicle or motor-driven cycle, other 49346  
than a commercial motor vehicle, and includes "probationary 49347  
license," "restricted license," and any operator's or chauffeur's 49348  
license issued before January 1, 1990. 49349

"Probationary license" means the license issued to any person 49350  
between sixteen and eighteen years of age to operate a motor 49351  
vehicle. 49352

"Restricted license" means the license issued to any person 49353  
to operate a motor vehicle subject to conditions or restrictions 49354  
imposed by the registrar of motor vehicles. 49355

"Commercial driver's license" means the license issued to a 49356

person under Chapter 4506. of the Revised Code to operate a 49357  
commercial motor vehicle. 49358

"Commercial motor vehicle" has the same meaning as in section 49359  
4506.01 of the Revised Code. 49360

"Motorized bicycle license" means the license issued under 49361  
section 4511.521 of the Revised Code to any person to operate a 49362  
motorized bicycle including a "probationary motorized bicycle 49363  
license." 49364

"Probationary motorized bicycle license" means the license 49365  
issued under section 4511.521 of the Revised Code to any person 49366  
between fourteen and sixteen years of age to operate a motorized 49367  
bicycle. 49368

"Identification card" means a card issued under sections 49369  
4507.50 and 4507.51 of the Revised Code. 49370

"Resident" means a person who, in accordance with standards 49371  
prescribed in rules adopted by the registrar, resides in this 49372  
state on a permanent basis. 49373

"Temporary resident" means a person who, in accordance with 49374  
standards prescribed in rules adopted by the registrar, resides in 49375  
this state on a temporary basis. 49376

(B) In the administration of this chapter and Chapter 4506. 49377  
of the Revised Code, the registrar has the same authority as is 49378  
conferred on the registrar by section 4501.02 of the Revised Code. 49379  
Any act of an authorized deputy registrar of motor vehicles under 49380  
direction of the registrar is deemed the act of the registrar. 49381

To carry out this chapter, the registrar shall appoint such 49382  
deputy registrars in each county as are necessary. 49383

The registrar also shall provide at each place where an 49384  
application for a driver's or commercial driver's license or 49385  
identification card may be made the necessary equipment to take a 49386

color photograph of the applicant for such license or card as 49387  
required under section 4506.11 or 4507.06 of the Revised Code, and 49388  
to conduct the vision screenings required by section 4507.12 of 49389  
the Revised Code, and equipment to laminate licenses, motorized 49390  
bicycle licenses, and identification cards as required by sections 49391  
4507.13, 4507.52, and 4511.521 of the Revised Code. 49392

The registrar shall assign one or more deputy registrars to 49393  
any driver's license examining station operated under the 49394  
supervision of the ~~state highway patrol~~ director of public safety, 49395  
whenever the registrar considers such assignment possible. Space 49396  
shall be provided in the driver's license examining station for 49397  
any such deputy registrar so assigned. The deputy registrars shall 49398  
not exercise the powers conferred by such sections upon the 49399  
registrar, unless they are specifically authorized to exercise 49400  
such powers by such sections. 49401

(C) No agent for any insurance company, writing automobile 49402  
insurance, shall be appointed deputy registrar, and any such 49403  
appointment is void. No deputy registrar shall in any manner 49404  
solicit any form of automobile insurance, nor in any manner 49405  
advise, suggest, or influence any licensee or applicant for 49406  
license for or against any kind or type of automobile insurance, 49407  
insurance company, or agent, nor have the deputy registrar's 49408  
office directly connected with the office of any automobile 49409  
insurance agent, nor impart any information furnished by any 49410  
applicant for a license or identification card to any person, 49411  
except the registrar. This division shall not apply to any 49412  
nonprofit corporation appointed deputy registrar. 49413

(D) The registrar shall immediately remove a deputy registrar 49414  
who violates the requirements of this chapter. 49415

(E) The registrar shall periodically solicit bids and enter 49416  
into a contract for the provision of laminating equipment and 49417  
laminating materials to the registrar and all deputy registrars. 49418

The registrar shall not consider any bid that does not provide for 49419  
the supplying of both laminating equipment and laminating 49420  
materials. The laminating materials selected shall contain a 49421  
security feature so that any tampering with the laminating 49422  
material covering a license or identification card is readily 49423  
apparent. In soliciting bids and entering into a contract for the 49424  
provision of laminating equipment and laminating materials, the 49425  
registrar shall observe all procedures required by law. 49426

**Sec. 4507.011.** (A) Each deputy registrar assigned to a 49427  
driver's license examining station by the registrar of motor 49428  
vehicles as provided in section 4507.01 of the Revised Code shall 49429  
remit to the ~~superintendent~~ director of the ~~state highway patrol~~ 49430  
public safety a rental fee equal to the percentage of space 49431  
occupied by the deputy registrar in the driver's license examining 49432  
station multiplied by the rental fee paid for the entire driver's 49433  
license examining station plus a pro rata share of all utility 49434  
costs. All such moneys received by the ~~superintendent~~ director 49435  
shall be deposited in the state treasury to the credit of the 49436  
registrar rental fund, which is hereby created. The moneys in the 49437  
fund shall be used by the ~~state highway patrol~~ department of 49438  
public safety only to pay the rent and expenses of the driver's 49439  
license examining stations. All investment earnings of the fund 49440  
shall be credited to the fund. 49441

(B) Each deputy registrar assigned to a bureau of motor 49442  
vehicles' location shall reimburse the registrar a monthly 49443  
building rental fee, including applicable utility charges. All 49444  
such moneys received by the registrar shall be deposited into the 49445  
state bureau of motor vehicles fund created in section 4501.25 of 49446  
the Revised Code. 49447

**Sec. 4507.12.** (A) Except as provided in division (C) of 49448  
section 4507.10 of the Revised Code, each person applying for the 49449

renewal of a driver's license shall submit to a screening of the 49450  
person's vision before the license may be renewed. The vision 49451  
screening shall be conducted at the office of the deputy registrar 49452  
receiving the application for license renewal. 49453

(B) When the results of a vision screening given under 49454  
division (A) of this section indicate that the vision of the 49455  
person examined meets the standards required for licensing, the 49456  
deputy registrar may renew the person's driver's license at that 49457  
time. 49458

(C) When the results of a vision screening given under 49459  
division (A) of this section indicate that the vision of the 49460  
person screened may not meet the standards required for licensing, 49461  
the deputy registrar shall not renew the person's driver's license 49462  
at that time but shall refer the person to a driver's license 49463  
examiner appointed by the ~~superintendent~~ director of ~~the state~~ 49464  
~~highway patrol~~ public safety under section ~~5503.21~~ 5502.05 of the 49465  
Revised Code for a further examination of the person's vision. 49466  
When a person referred to a driver's license examiner by a deputy 49467  
registrar does not meet the vision standards required for 49468  
licensing, the driver's license examiner shall retain the person's 49469  
operator's or chauffeur's license and shall immediately notify the 49470  
registrar of motor vehicles of that fact. No driver's license 49471  
shall be issued to any such person, until the person's vision is 49472  
corrected to meet the standards required for licensing and the 49473  
person passes the vision screening required by this section. Any 49474  
person who operates a motor vehicle on a highway, or on any public 49475  
or private property used by the public for purposes of vehicular 49476  
travel or parking, during the time the person's driver's license 49477  
is held by a driver's license examiner under this division, shall 49478  
be deemed to be operating a motor vehicle in violation of division 49479  
(A) of section 4510.12 of the Revised Code. 49480

(D) The registrar shall adopt rules and shall provide any 49481  
forms necessary to properly conduct vision screenings at the 49482  
office of a deputy registrar. 49483

(E) No person conducting vision screenings under this section 49484  
shall be personally liable for damages for injury or loss to 49485  
persons or property and for death caused by the operation of a 49486  
motor vehicle by any person whose driver's license was renewed by 49487  
the deputy registrar under division (B) of this section. 49488

**Sec. 4507.51.** (A)(1) Every application for an identification 49489  
card or duplicate shall be made on a form furnished by the 49490  
registrar of motor vehicles, shall be signed by the applicant, and 49491  
by the applicant's parent or guardian if the applicant is under 49492  
eighteen years of age, and shall contain the following information 49493  
pertaining to the applicant: name, date of birth, sex, general 49494  
description including the applicant's height, weight, hair color, 49495  
and eye color, address, and social security number. The 49496  
application also shall state whether an applicant wishes to 49497  
certify willingness to make an anatomical gift under section 49498  
2108.05 of the Revised Code and shall include information about 49499  
the requirements of sections 2108.01 to 2108.29 of the Revised 49500  
Code that apply to persons who are less than eighteen years of 49501  
age. The statement regarding willingness to make such a donation 49502  
shall be given no consideration in the decision of whether to 49503  
issue an identification card. Each applicant shall be photographed 49504  
in color at the time of making application. 49505

(2)(a) The application also shall state whether the applicant 49506  
has executed a valid durable power of attorney for health care 49507  
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 49508  
executed a declaration governing the use or continuation, or the 49509  
withholding or withdrawal, of life-sustaining treatment pursuant 49510  
to sections 2133.01 to 2133.15 of the Revised Code and, if the 49511

applicant has executed either type of instrument, whether the 49512  
applicant wishes the identification card issued to indicate that 49513  
the applicant has executed the instrument. 49514

(b) On and after October 7, 2009, the application also shall 49515  
state whether the applicant is a veteran, active duty, or 49516  
reservist of the armed forces of the United States and, if the 49517  
applicant is such, whether the applicant wishes the identification 49518  
card issued to indicate that the applicant is a veteran, active 49519  
duty, or reservist of the armed forces of the United States by a 49520  
military designation on the identification card. 49521

(3) The registrar or deputy registrar, in accordance with 49522  
section 3503.11 of the Revised Code, shall register as an elector 49523  
any person who applies for an identification card or duplicate if 49524  
the applicant is eligible and wishes to be registered as an 49525  
elector. The decision of an applicant whether to register as an 49526  
elector shall be given no consideration in the decision of whether 49527  
to issue the applicant an identification card or duplicate. 49528

(B) The application for an identification card or duplicate 49529  
shall be filed in the office of the registrar or deputy registrar. 49530  
Each applicant shall present documentary evidence as required by 49531  
the registrar of the applicant's age and identity, and the 49532  
applicant shall swear that all information given is true. An 49533  
identification card issued by the department of rehabilitation and 49534  
correction under section 5120.59 of the Revised Code or an 49535  
identification card issued by the department of youth services 49536  
under section 5139.511 of the Revised Code shall be sufficient 49537  
documentary evidence under this division upon verification of the 49538  
applicant's social security number by the registrar or a deputy 49539  
registrar. Upon issuing an identification card under this section 49540  
for a person who has been issued an identification card under 49541  
section 5120.59 or section 5139.511 of the Revised Code, the 49542  
registrar or deputy registrar shall destroy the identification 49543

card issued under section 5120.59 or section 5139.511 of the 49544  
Revised Code. 49545

All applications for an identification card or duplicate 49546  
shall be filed in duplicate, and if submitted to a deputy 49547  
registrar, a copy shall be forwarded to the registrar. The 49548  
registrar shall prescribe rules for the manner in which a deputy 49549  
registrar is to file and maintain applications and other records. 49550  
The registrar shall maintain a suitable, indexed record of all 49551  
applications denied and cards issued or canceled. 49552

(C) In addition to any other information it contains, on and 49553  
after the date that is fifteen months after ~~the effective date of~~ 49554  
~~this amendment~~ April 7, 2009, the form furnished by the registrar 49555  
of motor vehicles for an application for an identification card or 49556  
duplicate shall inform applicants that the applicant must present 49557  
a copy of the applicant's DD-214 or an equivalent document in 49558  
order to qualify to have the card or duplicate indicate that the 49559  
applicant is an honorably discharged veteran of the armed forces 49560  
of the United States based on a request made pursuant to division 49561  
(A)(2)(b) of this section. 49562

**Sec. 4508.02.** (A)(1) The director of public safety, subject 49563  
to Chapter 119. of the Revised Code, shall adopt and prescribe 49564  
such rules concerning the administration and enforcement of this 49565  
chapter as are necessary to protect the public. The director shall 49566  
inspect the school facilities and equipment of applicants and 49567  
licensees and examine applicants for instructor's licenses. 49568

(2) The director shall adopt rules governing online driver 49569  
education courses that may be completed via the internet to 49570  
satisfy the classroom instruction under division (C) of this 49571  
section. The rules shall do all of the following: 49572

(a) Establish standards that an online driver training 49573  
enterprise must satisfy to be licensed to offer an online driver 49574

education course via the internet, including, at a minimum, proven 49575  
expertise in providing driver education and an acceptable 49576  
infrastructure capable of providing secure online driver education 49577  
in accord with advances in internet technology. The rules shall 49578  
allow an online driver training enterprise to be affiliated with a 49579  
licensed driver training school offering in-person classroom 49580  
instruction, but shall not require such an affiliation. 49581

(b) Establish content requirements that an online driver 49582  
education course must satisfy to be approved as equivalent to 49583  
twenty-four hours of in-person classroom instruction; 49584

(c) Establish attendance standards, including a maximum 49585  
number of course hours that may be completed in a twenty-four-hour 49586  
period; 49587

(d) Allow an enrolled applicant to begin the required eight 49588  
hours of actual behind-the-wheel instruction upon completing at 49589  
least two hours of course instruction and being issued a 49590  
certificate of enrollment by a licensed online driver training 49591  
enterprise; 49592

(e) Establish any other requirements necessary to regulate 49593  
online driver education. 49594

(B) The director shall administer and enforce this chapter. 49595

(C) The rules shall require twenty-four hours of in-person 49596  
classroom instruction or completion of an approved, equivalent 49597  
online driver education course offered via the internet by a 49598  
licensed online driver training enterprise, and eight hours of 49599  
actual behind-the-wheel instruction conducted on public streets 49600  
and highways of this state for all beginning drivers of 49601  
noncommercial motor vehicles who are under age eighteen. 49602

(D) The rules shall state the minimum hours for classroom and 49603  
behind-the-wheel instruction required for beginning drivers of 49604  
commercial trucks, commercial cars, buses, and commercial 49605

tractors, trailers, and ~~semi-trailers~~ semitrailers. 49606

(E)(1) The department of public safety may charge a fee to 49607  
each online driver training enterprise in an amount sufficient to 49608  
pay the actual expenses the department incurs in the regulation of 49609  
online driver education courses. 49610

(2) The department shall supply to each licensed online 49611  
driver training enterprise certificates to be used for certifying 49612  
an applicant's enrollment in an approved online driver education 49613  
course and a separate certificate to be issued upon successful 49614  
completion of an approved online driver education course. The 49615  
certificates shall be numbered serially. The department may charge 49616  
a fee to each online driver training enterprise per certificate 49617  
supplied to pay the actual expenses the department incurs in 49618  
supplying the certificates. 49619

**Sec. 4510.037.** (A) When the registrar of motor vehicles 49620  
determines that the total points charged against any person under 49621  
section 4510.036 of the Revised Code exceed five, the registrar 49622  
shall send a warning letter to the person at the person's last 49623  
known address by regular mail. The warning letter shall list the 49624  
reported violations that are the basis of the points charged, list 49625  
the number of points charged for each violation, and outline the 49626  
suspension provisions of this section. 49627

(B) When the registrar determines that the total points 49628  
charged against any person under section 4510.036 of the Revised 49629  
Code within any two-year period beginning on the date of the first 49630  
conviction within the two-year period is equal to twelve or more, 49631  
the registrar shall send a written notice to the person at the 49632  
person's last known address by regular mail. The notice shall list 49633  
the reported violations that are the basis of the points charged, 49634  
list the number of points charged for each violation, and state 49635  
that, because the total number of points charged against the 49636

person within the applicable two-year period is equal to twelve or 49637  
more, the registrar is imposing a class D suspension of the 49638  
person's driver's or commercial driver's license or permit or 49639  
nonresident operating privileges for the period of time specified 49640  
in division (B)(4) of section 4510.02 of the Revised Code. The 49641  
notice also shall state that the suspension is effective on the 49642  
twentieth day after the mailing of the notice, unless the person 49643  
files a petition appealing the determination and suspension in the 49644  
municipal court, county court, or, if the person is under the age 49645  
of eighteen, the juvenile division of the court of common pleas in 49646  
whose jurisdiction the person resides or, if the person is not a 49647  
resident of this state, in the Franklin county municipal court or 49648  
juvenile division of the Franklin county court of common pleas. By 49649  
filing the appeal of the determination and suspension, the person 49650  
agrees to pay the cost of the proceedings in the appeal of the 49651  
determination and suspension and alleges that the person can show 49652  
cause why the person's driver's or commercial driver's license or 49653  
permit or nonresident operating privileges should not be 49654  
suspended. 49655

(C)(1) Any person against whom at least two but less than 49656  
twelve points have been charged under section 4510.036 of the 49657  
Revised Code may enroll in a course of remedial driving 49658  
instruction that is approved by the director of public safety. 49659  
Upon the person's completion of an approved course of remedial 49660  
driving instruction, the person may apply to the registrar on a 49661  
form prescribed by the registrar for a credit of two points on the 49662  
person's driving record. Upon receipt of the application and proof 49663  
of completion of the approved remedial driving course, the 49664  
registrar shall approve the two-point credit. The registrar shall 49665  
not approve any credits for a person who completes an approved 49666  
course of remedial driving instruction pursuant to a judge's order 49667  
under section 4510.02 of the Revised Code. 49668

(2) In any three-year period, the registrar shall approve 49669  
only one two-point credit on a person's driving record under 49670  
division (C)(1) of this section. The registrar shall approve not 49671  
more than five two-point credits on a person's driving record 49672  
under division (C)(1) of this section during that person's 49673  
lifetime. 49674

(D) When a judge of a court of record suspends a person's 49675  
driver's or commercial driver's license or permit or nonresident 49676  
operating privilege and charges points against the person under 49677  
section 4510.036 of the Revised Code for the offense that resulted 49678  
in the suspension, the registrar shall credit that period of 49679  
suspension against the time of any subsequent suspension imposed 49680  
under this section for which those points were used to impose the 49681  
subsequent suspension. When a United States district court that 49682  
has jurisdiction within this state suspends a person's driver's or 49683  
commercial driver's license or permit or nonresident operating 49684  
privileges pursuant to the "Assimilative Crimes Act," 102 Stat. 49685  
4381 (1988), 18 U.S.C.A. 13, as amended, the district court 49686  
prepares an abstract pursuant to section 4510.031 of the Revised 49687  
Code, and the district court charges points against the person 49688  
under section 4510.036 of the Revised Code for the offense that 49689  
resulted in the suspension, the registrar shall credit the period 49690  
of suspension imposed by the district court against the time of 49691  
any subsequent suspension imposed under this section for which the 49692  
points were used to impose the subsequent suspension. 49693

(E) The registrar, upon the written request of a licensee who 49694  
files a petition under division (B) of this section, shall furnish 49695  
the licensee a certified copy of the registrar's record of the 49696  
convictions and bond forfeitures of the person. This record shall 49697  
include the name, address, and date of birth of the licensee; the 49698  
name of the court in which each conviction or bail forfeiture took 49699  
place; the nature of the offense that was the basis of the 49700

conviction or bond forfeiture; and any other information that the registrar considers necessary. If the record indicates that twelve points or more have been charged against the person within a two-year period, it is prima-facie evidence that the person is a repeat traffic offender, and the registrar shall suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege pursuant to division (B) of this section.

In hearing the petition and determining whether the person filing the petition has shown cause why the person's driver's or commercial driver's license or permit or nonresident operating privilege should not be suspended, the court shall decide the issue on the record certified by the registrar and any additional relevant, competent, and material evidence that either the registrar or the person whose license is sought to be suspended submits.

(F) If a petition is filed under division (B) of this section in a county court, the prosecuting attorney of the county in which the case is pending shall represent the registrar in the proceedings, except that, if the petitioner resides in a municipal corporation within the jurisdiction of the county court, the city director of law, village solicitor, or other chief legal officer of the municipal corporation shall represent the registrar in the proceedings. If a petition is filed under division (B) of this section in a municipal court, the registrar shall be represented in the resulting proceedings as provided in section 1901.34 of the Revised Code.

(G) If the court determines from the evidence submitted that a person who filed a petition under division (B) of this section has failed to show cause why the person's driver's or commercial driver's license or permit or nonresident operating privileges should not be suspended, the court shall assess against the person

the cost of the proceedings in the appeal of the determination and 49733  
suspension and shall impose the applicable suspension under this 49734  
section or suspend all or a portion of the suspension and impose 49735  
any conditions upon the person that the court considers proper or 49736  
impose upon the person a community control sanction pursuant to 49737  
section 2929.15 or 2929.25 of the Revised Code. If the court 49738  
determines from the evidence submitted that a person who filed a 49739  
petition under division (B) of this section has shown cause why 49740  
the person's driver's or commercial driver's license or permit or 49741  
nonresident operating privileges should not be suspended, the 49742  
costs of the appeal proceeding shall be paid out of the county 49743  
treasury of the county in which the proceedings were held. 49744

(H) Any person whose driver's or commercial driver's license 49745  
or permit or nonresident operating privileges are suspended under 49746  
this section is not entitled to apply for or receive a new 49747  
driver's or commercial driver's license or permit or to request or 49748  
be granted nonresident operating privileges during the effective 49749  
period of the suspension. 49750

(I) Upon the termination of any suspension or other penalty 49751  
imposed under this section involving the surrender of license or 49752  
permit and upon the request of the person whose license or permit 49753  
was suspended or surrendered, the registrar shall return the 49754  
license or permit to the person upon determining that the person 49755  
has complied with all provisions of section 4510.038 of the 49756  
Revised Code or, if the registrar destroyed the license or permit 49757  
pursuant to section 4510.52 of the Revised Code, shall reissue the 49758  
person's license or permit. 49759

(J) Any person whose driver's or commercial driver's license 49760  
or permit or nonresident operating privileges are suspended as a 49761  
repeat traffic offender under this section and who, during the 49762  
suspension, operates any motor vehicle upon any public roads and 49763  
highways is guilty of driving under a twelve-point suspension, a 49764

misdemeanor of the first degree. The court shall sentence the 49765  
offender to a minimum term of three days in jail. No court shall 49766  
suspend the first three days of jail time imposed pursuant to this 49767  
division. 49768

(K) The registrar, in accordance with specific statutory 49769  
authority, may suspend the privilege of driving a motor vehicle on 49770  
the public roads and highways of this state that is granted to 49771  
nonresidents by section 4507.04 of the Revised Code. 49772

(L) Any (1) Except as provided in division (L)(2) of this 49773  
section, any course of remedial driving instruction the director 49774  
of public safety approves under this section shall require its 49775  
students to attend at least fifty per cent of the course in 49776  
person. ~~The~~ and the director shall not approve any course of 49777  
remedial driving instruction that permits its students to take 49778  
more than fifty per cent of the course in any other manner, 49779  
including via video teleconferencing or the internet. 49780

(2) The director may approve a course of remedial instruction 49781  
that permits students to take the entire course via video 49782  
teleconferencing or the internet. In accordance with division (C) 49783  
of this section, upon receiving an application with a certificate 49784  
or other proof of completion of a course approved under this 49785  
division, the registrar shall approve the two-point reduction. 49786

**Sec. 4510.038.** (A) Any person whose driver's or commercial 49787  
driver's license or permit is suspended or who is granted limited 49788  
driving privileges under section 4510.037, under division (H) of 49789  
section 4511.19, or under section 4510.07 of the Revised Code for 49790  
a violation of a municipal ordinance that is substantially 49791  
equivalent to division (B) of section 4511.19 of the Revised Code 49792  
is not eligible to retain the license, or to have the driving 49793  
privileges reinstated, until each of the following has occurred: 49794

(1) The person successfully completes a course of remedial 49795

driving instruction approved by the director of public safety. A 49796  
minimum of twenty-five per cent of the number of hours of 49797  
instruction included in the course shall be devoted to instruction 49798  
on driver attitude. 49799

The course also shall devote a number of hours to instruction 49800  
in the area of alcohol and drugs and the operation of vehicles. 49801  
The instruction shall include, but not be limited to, a review of 49802  
the laws governing the operation of a vehicle while under the 49803  
influence of alcohol, drugs, or a combination of them, the dangers 49804  
of operating a vehicle while under the influence of alcohol, 49805  
drugs, or a combination of them, and other information relating to 49806  
the operation of vehicles and the consumption of alcoholic 49807  
beverages and use of drugs. The director, in consultation with the 49808  
director of alcohol and drug addiction services, shall prescribe 49809  
the content of the instruction. The number of hours devoted to the 49810  
area of alcohol and drugs and the operation of vehicles shall 49811  
comprise a minimum of twenty-five per cent of the number of hours 49812  
of instruction included in the course. 49813

(2) The person is examined in the manner provided for in 49814  
section 4507.20 of the Revised Code, and found by the registrar of 49815  
motor vehicles to be qualified to operate a motor vehicle; 49816

(3) The person gives and maintains proof of financial 49817  
responsibility, in accordance with section 4509.45 of the Revised 49818  
Code. 49819

(B) ~~Any~~ (1) Except as provided in division (B)(2) of this 49820  
section, any course of remedial driving instruction the director 49821  
of public safety approves under this section shall require its 49822  
students to attend at least fifty per cent of the course in 49823  
person. ~~The~~ and the director shall not approve any course of 49824  
remedial driving instruction that permits its students to take 49825  
more than fifty per cent of the course in any other manner, 49826  
including via video teleconferencing or the internet. 49827

(2) The director may approve a course of remedial instruction 49828  
that permits students to take the entire course via video 49829  
teleconferencing or the internet. 49830

**Sec. 4511.191.** (A)(1) As used in this section: 49831

(a) "Physical control" has the same meaning as in section 49832  
4511.194 of the Revised Code. 49833

(b) "Alcohol monitoring device" means any device that 49834  
provides for continuous alcohol monitoring, any ignition interlock 49835  
device, any immobilizing or disabling device other than an 49836  
ignition interlock device that is constantly available to monitor 49837  
the concentration of alcohol in a person's system, or any other 49838  
device that provides for the automatic testing and periodic 49839  
reporting of alcohol consumption by a person and that a court 49840  
orders a person to use as a sanction imposed as a result of the 49841  
person's conviction of or plea of guilty to an offense. 49842

(2) Any person who operates a vehicle, streetcar, or 49843  
trackless trolley upon a highway or any public or private property 49844  
used by the public for vehicular travel or parking within this 49845  
state or who is in physical control of a vehicle, streetcar, or 49846  
trackless trolley shall be deemed to have given consent to a 49847  
chemical test or tests of the person's whole blood, blood serum or 49848  
plasma, breath, or urine to determine the alcohol, drug of abuse, 49849  
controlled substance, metabolite of a controlled substance, or 49850  
combination content of the person's whole blood, blood serum or 49851  
plasma, breath, or urine if arrested for a violation of division 49852  
(A) or (B) of section 4511.19 of the Revised Code, section 49853  
4511.194 of the Revised Code or a substantially equivalent 49854  
municipal ordinance, or a municipal OVI ordinance. 49855

(3) The chemical test or tests under division (A)(2) of this 49856  
section shall be administered at the request of a law enforcement 49857  
officer having reasonable grounds to believe the person was 49858

operating or in physical control of a vehicle, streetcar, or 49859  
trackless trolley in violation of a division, section, or 49860  
ordinance identified in division (A)(2) of this section. The law 49861  
enforcement agency by which the officer is employed shall 49862  
designate which of the tests shall be administered. 49863

(4) Any person who is dead or unconscious, or who otherwise 49864  
is in a condition rendering the person incapable of refusal, shall 49865  
be deemed to have consented as provided in division (A)(2) of this 49866  
section, and the test or tests may be administered, subject to 49867  
sections 313.12 to 313.16 of the Revised Code. 49868

(5)(a) If a law enforcement officer arrests a person for a 49869  
violation of division (A) or (B) of section 4511.19 of the Revised 49870  
Code, section 4511.194 of the Revised Code or a substantially 49871  
equivalent municipal ordinance, or a municipal OVI ordinance and 49872  
if the person if convicted would be required to be sentenced under 49873  
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 49874  
Code, the law enforcement officer shall request the person to 49875  
submit, and the person shall submit, to a chemical test or tests 49876  
of the person's whole blood, blood serum or plasma, breath, or 49877  
urine for the purpose of determining the alcohol, drug of abuse, 49878  
controlled substance, metabolite of a controlled substance, or 49879  
combination content of the person's whole blood, blood serum or 49880  
plasma, breath, or urine. A law enforcement officer who makes a 49881  
request pursuant to this division that a person submit to a 49882  
chemical test or tests is not required to advise the person of the 49883  
consequences of submitting to, or refusing to submit to, the test 49884  
or tests and is not required to give the person the form described 49885  
in division (B) of section 4511.192 of the Revised Code, but the 49886  
officer shall advise the person at the time of the arrest that if 49887  
the person refuses to take a chemical test the officer may employ 49888  
whatever reasonable means are necessary to ensure that the person 49889  
submits to a chemical test of the person's whole blood or blood 49890

serum or plasma. The officer shall also advise the person at the 49891  
time of the arrest that the person may have an independent 49892  
chemical test taken at the person's own expense. Divisions (A)(3) 49893  
and (4) of this section apply to the administration of a chemical 49894  
test or tests pursuant to this division. 49895

(b) If a person refuses to submit to a chemical test upon a 49896  
request made pursuant to division (A)(5)(a) of this section, the 49897  
law enforcement officer who made the request may employ whatever 49898  
reasonable means are necessary to ensure that the person submits 49899  
to a chemical test of the person's whole blood or blood serum or 49900  
plasma. A law enforcement officer who acts pursuant to this 49901  
division to ensure that a person submits to a chemical test of the 49902  
person's whole blood or blood serum or plasma is immune from 49903  
criminal and civil liability based upon a claim for assault and 49904  
battery or any other claim for the acts, unless the officer so 49905  
acted with malicious purpose, in bad faith, or in a wanton or 49906  
reckless manner. 49907

(B)(1) Upon receipt of the sworn report of a law enforcement 49908  
officer who arrested a person for a violation of division (A) or 49909  
(B) of section 4511.19 of the Revised Code, section 4511.194 of 49910  
the Revised Code or a substantially equivalent municipal 49911  
ordinance, or a municipal OVI ordinance that was completed and 49912  
sent to the registrar of motor vehicles and a court pursuant to 49913  
section 4511.192 of the Revised Code in regard to a person who 49914  
refused to take the designated chemical test, the registrar shall 49915  
enter into the registrar's records the fact that the person's 49916  
driver's or commercial driver's license or permit or nonresident 49917  
operating privilege was suspended by the arresting officer under 49918  
this division and that section and the period of the suspension, 49919  
as determined under this section. The suspension shall be subject 49920  
to appeal as provided in section 4511.197 of the Revised Code. The 49921  
suspension shall be for whichever of the following periods 49922

applies: 49923

(a) Except when division (B)(1)(b), (c), or (d) of this 49924  
section applies and specifies a different class or length of 49925  
suspension, the suspension shall be a class C suspension for the 49926  
period of time specified in division (B)(3) of section 4510.02 of 49927  
the Revised Code. 49928

(b) If the arrested person, within six years of the date on 49929  
which the person refused the request to consent to the chemical 49930  
test, had refused one previous request to consent to a chemical 49931  
test or had been convicted of or pleaded guilty to one violation 49932  
of division (A) or (B) of section 4511.19 of the Revised Code or 49933  
one other equivalent offense, the suspension shall be a class B 49934  
suspension imposed for the period of time specified in division 49935  
(B)(2) of section 4510.02 of the Revised Code. 49936

(c) If the arrested person, within six years of the date on 49937  
which the person refused the request to consent to the chemical 49938  
test, had refused two previous requests to consent to a chemical 49939  
test, had been convicted of or pleaded guilty to two violations of 49940  
division (A) or (B) of section 4511.19 of the Revised Code or 49941  
other equivalent offenses, or had refused one previous request to 49942  
consent to a chemical test and also had been convicted of or 49943  
pleaded guilty to one violation of division (A) or (B) of section 49944  
4511.19 of the Revised Code or other equivalent offenses, which 49945  
violation or offense arose from an incident other than the 49946  
incident that led to the refusal, the suspension shall be a class 49947  
A suspension imposed for the period of time specified in division 49948  
(B)(1) of section 4510.02 of the Revised Code. 49949

(d) If the arrested person, within six years of the date on 49950  
which the person refused the request to consent to the chemical 49951  
test, had refused three or more previous requests to consent to a 49952  
chemical test, had been convicted of or pleaded guilty to three or 49953  
more violations of division (A) or (B) of section 4511.19 of the 49954

Revised Code or other equivalent offenses, or had refused a number 49955  
of previous requests to consent to a chemical test and also had 49956  
been convicted of or pleaded guilty to a number of violations of 49957  
division (A) or (B) of section 4511.19 of the Revised Code or 49958  
other equivalent offenses that cumulatively total three or more 49959  
such refusals, convictions, and guilty pleas, the suspension shall 49960  
be for five years. 49961

(2) The registrar shall terminate a suspension of the 49962  
driver's or commercial driver's license or permit of a resident or 49963  
of the operating privilege of a nonresident, or a denial of a 49964  
driver's or commercial driver's license or permit, imposed 49965  
pursuant to division (B)(1) of this section upon receipt of notice 49966  
that the person has entered a plea of guilty to, or that the 49967  
person has been convicted after entering a plea of no contest to, 49968  
operating a vehicle in violation of section 4511.19 of the Revised 49969  
Code or in violation of a municipal OVI ordinance, if the offense 49970  
for which the conviction is had or the plea is entered arose from 49971  
the same incident that led to the suspension or denial. 49972

The registrar shall credit against any judicial suspension of 49973  
a person's driver's or commercial driver's license or permit or 49974  
nonresident operating privilege imposed pursuant to section 49975  
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 49976  
Revised Code for a violation of a municipal OVI ordinance, any 49977  
time during which the person serves a related suspension imposed 49978  
pursuant to division (B)(1) of this section. 49979

(C)(1) Upon receipt of the sworn report of the law 49980  
enforcement officer who arrested a person for a violation of 49981  
division (A) or (B) of section 4511.19 of the Revised Code or a 49982  
municipal OVI ordinance that was completed and sent to the 49983  
registrar and a court pursuant to section 4511.192 of the Revised 49984  
Code in regard to a person whose test results indicate that the 49985  
person's whole blood, blood serum or plasma, breath, or urine 49986

contained at least the concentration of alcohol specified in 49987  
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 49988  
Revised Code or at least the concentration of a listed controlled 49989  
substance or a listed metabolite of a controlled substance 49990  
specified in division (A)(1)(j) of section 4511.19 of the Revised 49991  
Code, the registrar shall enter into the registrar's records the 49992  
fact that the person's driver's or commercial driver's license or 49993  
permit or nonresident operating privilege was suspended by the 49994  
arresting officer under this division and section 4511.192 of the 49995  
Revised Code and the period of the suspension, as determined under 49996  
divisions (C)(1)(a) to (d) of this section. The suspension shall 49997  
be subject to appeal as provided in section 4511.197 of the 49998  
Revised Code. The suspension described in this division does not 49999  
apply to, and shall not be imposed upon, a person arrested for a 50000  
violation of section 4511.194 of the Revised Code or a 50001  
substantially equivalent municipal ordinance who submits to a 50002  
designated chemical test. The suspension shall be for whichever of 50003  
the following periods applies: 50004

(a) Except when division (C)(1)(b), (c), or (d) of this 50005  
section applies and specifies a different period, the suspension 50006  
shall be a class E suspension imposed for the period of time 50007  
specified in division (B)(5) of section 4510.02 of the Revised 50008  
Code. 50009

(b) The suspension shall be a class C suspension for the 50010  
period of time specified in division (B)(3) of section 4510.02 of 50011  
the Revised Code if the person has been convicted of or pleaded 50012  
guilty to, within six years of the date the test was conducted, 50013  
one violation of division (A) or (B) of section 4511.19 of the 50014  
Revised Code or one other equivalent offense. 50015

(c) If, within six years of the date the test was conducted, 50016  
the person has been convicted of or pleaded guilty to two 50017  
violations of a statute or ordinance described in division 50018

(C)(1)(b) of this section, the suspension shall be a class B 50019  
suspension imposed for the period of time specified in division 50020  
(B)(2) of section 4510.02 of the Revised Code. 50021

(d) If, within six years of the date the test was conducted, 50022  
the person has been convicted of or pleaded guilty to more than 50023  
two violations of a statute or ordinance described in division 50024  
(C)(1)(b) of this section, the suspension shall be a class A 50025  
suspension imposed for the period of time specified in division 50026  
(B)(1) of section 4510.02 of the Revised Code. 50027

(2) The registrar shall terminate a suspension of the 50028  
driver's or commercial driver's license or permit of a resident or 50029  
of the operating privilege of a nonresident, or a denial of a 50030  
driver's or commercial driver's license or permit, imposed 50031  
pursuant to division (C)(1) of this section upon receipt of notice 50032  
that the person has entered a plea of guilty to, or that the 50033  
person has been convicted after entering a plea of no contest to, 50034  
operating a vehicle in violation of section 4511.19 of the Revised 50035  
Code or in violation of a municipal OVI ordinance, if the offense 50036  
for which the conviction is had or the plea is entered arose from 50037  
the same incident that led to the suspension or denial. 50038

The registrar shall credit against any judicial suspension of 50039  
a person's driver's or commercial driver's license or permit or 50040  
nonresident operating privilege imposed pursuant to section 50041  
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 50042  
Revised Code for a violation of a municipal OVI ordinance, any 50043  
time during which the person serves a related suspension imposed 50044  
pursuant to division (C)(1) of this section. 50045

(D)(1) A suspension of a person's driver's or commercial 50046  
driver's license or permit or nonresident operating privilege 50047  
under this section for the time described in division (B) or (C) 50048  
of this section is effective immediately from the time at which 50049  
the arresting officer serves the notice of suspension upon the 50050

arrested person. Any subsequent finding that the person is not 50051  
guilty of the charge that resulted in the person being requested 50052  
to take the chemical test or tests under division (A) of this 50053  
section does not affect the suspension. 50054

(2) If a person is arrested for operating a vehicle, 50055  
streetcar, or trackless trolley in violation of division (A) or 50056  
(B) of section 4511.19 of the Revised Code or a municipal OVI 50057  
ordinance, or for being in physical control of a vehicle, 50058  
streetcar, or trackless trolley in violation of section 4511.194 50059  
of the Revised Code or a substantially equivalent municipal 50060  
ordinance, regardless of whether the person's driver's or 50061  
commercial driver's license or permit or nonresident operating 50062  
privilege is or is not suspended under division (B) or (C) of this 50063  
section or Chapter 4510. of the Revised Code, the person's initial 50064  
appearance on the charge resulting from the arrest shall be held 50065  
within five days of the person's arrest or the issuance of the 50066  
citation to the person, subject to any continuance granted by the 50067  
court pursuant to section 4511.197 of the Revised Code regarding 50068  
the issues specified in that division. 50069

(E) When it finally has been determined under the procedures 50070  
of this section and sections 4511.192 to 4511.197 of the Revised 50071  
Code that a nonresident's privilege to operate a vehicle within 50072  
this state has been suspended, the registrar shall give 50073  
information in writing of the action taken to the motor vehicle 50074  
administrator of the state of the person's residence and of any 50075  
state in which the person has a license. 50076

(F) At the end of a suspension period under this section, 50077  
under section 4511.194, section 4511.196, or division (G) of 50078  
section 4511.19 of the Revised Code, or under section 4510.07 of 50079  
the Revised Code for a violation of a municipal OVI ordinance and 50080  
upon the request of the person whose driver's or commercial 50081  
driver's license or permit was suspended and who is not otherwise 50082

subject to suspension, cancellation, or disqualification, the 50083  
registrar shall return the driver's or commercial driver's license 50084  
or permit to the person upon the occurrence of all of the 50085  
conditions specified in divisions (F)(1) and (2) of this section: 50086

(1) A showing that the person has proof of financial 50087  
responsibility, a policy of liability insurance in effect that 50088  
meets the minimum standards set forth in section 4509.51 of the 50089  
Revised Code, or proof, to the satisfaction of the registrar, that 50090  
the person is able to respond in damages in an amount at least 50091  
equal to the minimum amounts specified in section 4509.51 of the 50092  
Revised Code. 50093

(2) Subject to the limitation contained in division (F)(3) of 50094  
this section, payment by the person to the registrar or an 50095  
eligible deputy registrar of a license reinstatement fee of four 50096  
hundred seventy-five dollars, which fee shall be deposited in the 50097  
state treasury and credited as follows: 50098

(a) One hundred twelve dollars and fifty cents shall be 50099  
credited to the statewide treatment and prevention fund created by 50100  
section 4301.30 of the Revised Code. Money credited to the fund 50101  
under this section shall be used for purposes identified in the 50102  
comprehensive statewide alcohol and drug addiction services plan 50103  
developed under section 3793.04 of the Revised Code. 50104

(b) Seventy-five dollars shall be credited to the reparations 50105  
fund created by section 2743.191 of the Revised Code. 50106

(c) Thirty-seven dollars and fifty cents shall be credited to 50107  
the indigent drivers alcohol treatment fund, which is hereby 50108  
established in the state treasury. Except as otherwise provided in 50109  
division (F)(2)(c) of this section, moneys in the fund shall be 50110  
distributed by the department of alcohol and drug addiction 50111  
services to the county indigent drivers alcohol treatment funds, 50112  
the county juvenile indigent drivers alcohol treatment funds, and 50113

the municipal indigent drivers alcohol treatment funds that are 50114  
required to be established by counties and municipal corporations 50115  
pursuant to division (H) of this section, and shall be used only 50116  
to pay the cost of an alcohol and drug addiction treatment program 50117  
attended by an offender or juvenile traffic offender who is 50118  
ordered to attend an alcohol and drug addiction treatment program 50119  
by a county, juvenile, or municipal court judge and who is 50120  
determined by the county, juvenile, or municipal court judge not 50121  
to have the means to pay for the person's attendance at the 50122  
program or to pay the costs specified in division (H)(4) of this 50123  
section in accordance with that division. In addition, a county, 50124  
juvenile, or municipal court judge may use moneys in the county 50125  
indigent drivers alcohol treatment fund, county juvenile indigent 50126  
drivers alcohol treatment fund, or municipal indigent drivers 50127  
alcohol treatment fund to pay for the cost of the continued use of 50128  
an alcohol monitoring device as described in divisions (H)(3) and 50129  
(4) of this section. Moneys in the fund that are not distributed 50130  
to a county indigent drivers alcohol treatment fund, a county 50131  
juvenile indigent drivers alcohol treatment fund, or a municipal 50132  
indigent drivers alcohol treatment fund under division (H) of this 50133  
section because the director of alcohol and drug addiction 50134  
services does not have the information necessary to identify the 50135  
county or municipal corporation where the offender or juvenile 50136  
offender was arrested may be transferred by the director of budget 50137  
and management to the statewide treatment and prevention fund 50138  
created by section 4301.30 of the Revised Code, upon certification 50139  
of the amount by the director of alcohol and drug addiction 50140  
services. 50141

(d) Seventy-five dollars shall be credited to the Ohio 50142  
rehabilitation services commission established by section 3304.12 50143  
of the Revised Code, to the services for rehabilitation fund, 50144  
which is hereby established. The fund shall be used to match 50145  
available federal matching funds where appropriate, and for any 50146

other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services ~~grants~~ fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or

division (G) of section 4511.19 of the Revised Code, under section 50178  
4510.07 of the Revised Code for a violation of a municipal OVI 50179  
ordinance or under any combination of the suspensions described in 50180  
division (F)(3) of this section, and if the suspensions arise from 50181  
a single incident or a single set of facts and circumstances, the 50182  
person is liable for payment of, and shall be required to pay to 50183  
the registrar or an eligible deputy registrar, only one 50184  
reinstatement fee of four hundred seventy-five dollars. The 50185  
reinstatement fee shall be distributed by the bureau in accordance 50186  
with division (F)(2) of this section. 50187

(4) The attorney general shall use amounts in the drug abuse 50188  
resistance education programs fund to award grants to law 50189  
enforcement agencies to establish and implement drug abuse 50190  
resistance education programs in public schools. Grants awarded to 50191  
a law enforcement agency under this section shall be used by the 50192  
agency to pay for not more than fifty per cent of the amount of 50193  
the salaries of law enforcement officers who conduct drug abuse 50194  
resistance education programs in public schools. The attorney 50195  
general shall not use more than six per cent of the amounts the 50196  
attorney general's office receives under division (F)(2)(e) of 50197  
this section to pay the costs it incurs in administering the grant 50198  
program established by division (F)(2)(e) of this section and in 50199  
providing training and materials relating to drug abuse resistance 50200  
education programs. 50201

The attorney general shall report to the governor and the 50202  
general assembly each fiscal year on the progress made in 50203  
establishing and implementing drug abuse resistance education 50204  
programs. These reports shall include an evaluation of the 50205  
effectiveness of these programs. 50206

(5) In addition to the reinstatement fee under this section, 50207  
if the person pays the reinstatement fee to a deputy registrar, 50208  
the deputy registrar shall collect a service fee of ten dollars to 50209

compensate the deputy registrar for services performed under this 50210  
section. The deputy registrar shall retain eight dollars of the 50211  
service fee and shall transmit the reinstatement fee, plus two 50212  
dollars of the service fee, to the registrar in the manner the 50213  
registrar shall determine. 50214

(G) Suspension of a commercial driver's license under 50215  
division (B) or (C) of this section shall be concurrent with any 50216  
period of disqualification under section 3123.611 or 4506.16 of 50217  
the Revised Code or any period of suspension under section 3123.58 50218  
of the Revised Code. No person who is disqualified for life from 50219  
holding a commercial driver's license under section 4506.16 of the 50220  
Revised Code shall be issued a driver's license under Chapter 50221  
4507. of the Revised Code during the period for which the 50222  
commercial driver's license was suspended under division (B) or 50223  
(C) of this section. No person whose commercial driver's license 50224  
is suspended under division (B) or (C) of this section shall be 50225  
issued a driver's license under Chapter 4507. of the Revised Code 50226  
during the period of the suspension. 50227

(H)(1) Each county shall establish an indigent drivers 50228  
alcohol treatment fund, each county shall establish a juvenile 50229  
indigent drivers alcohol treatment fund, and each municipal 50230  
corporation in which there is a municipal court shall establish an 50231  
indigent drivers alcohol treatment fund. All revenue that the 50232  
general assembly appropriates to the indigent drivers alcohol 50233  
treatment fund for transfer to a county indigent drivers alcohol 50234  
treatment fund, a county juvenile indigent drivers alcohol 50235  
treatment fund, or a municipal indigent drivers alcohol treatment 50236  
fund, all portions of fees that are paid under division (F) of 50237  
this section and that are credited under that division to the 50238  
indigent drivers alcohol treatment fund in the state treasury for 50239  
a county indigent drivers alcohol treatment fund, a county 50240  
juvenile indigent drivers alcohol treatment fund, or a municipal 50241

indigent drivers alcohol treatment fund, all portions of 50242  
additional costs imposed under section 2949.094 of the Revised 50243  
Code that are specified for deposit into a county, county 50244  
juvenile, or municipal indigent drivers alcohol treatment fund by 50245  
that section, and all portions of fines that are specified for 50246  
deposit into a county or municipal indigent drivers alcohol 50247  
treatment fund by section 4511.193 of the Revised Code shall be 50248  
deposited into that county indigent drivers alcohol treatment 50249  
fund, county juvenile indigent drivers alcohol treatment fund, or 50250  
municipal indigent drivers alcohol treatment fund. The portions of 50251  
the fees paid under division (F) of this section that are to be so 50252  
deposited shall be determined in accordance with division (H)(2) 50253  
of this section. Additionally, all portions of fines that are paid 50254  
for a violation of section 4511.19 of the Revised Code or of any 50255  
prohibition contained in Chapter 4510. of the Revised Code, and 50256  
that are required under section 4511.19 or any provision of 50257  
Chapter 4510. of the Revised Code to be deposited into a county 50258  
indigent drivers alcohol treatment fund or municipal indigent 50259  
drivers alcohol treatment fund shall be deposited into the 50260  
appropriate fund in accordance with the applicable division of the 50261  
section or provision. 50262

(2) That portion of the license reinstatement fee that is 50263  
paid under division (F) of this section and that is credited under 50264  
that division to the indigent drivers alcohol treatment fund shall 50265  
be deposited into a county indigent drivers alcohol treatment 50266  
fund, a county juvenile indigent drivers alcohol treatment fund, 50267  
or a municipal indigent drivers alcohol treatment fund as follows: 50268

(a) Regarding a suspension imposed under this section, that 50269  
portion of the fee shall be deposited as follows: 50270

(i) If the fee is paid by a person who was charged in a 50271  
county court with the violation that resulted in the suspension or 50272  
in the imposition of the court costs, the portion shall be 50273

deposited into the county indigent drivers alcohol treatment fund 50274  
under the control of that court; 50275

(ii) If the fee is paid by a person who was charged in a 50276  
juvenile court with the violation that resulted in the suspension 50277  
or in the imposition of the court costs, the portion shall be 50278  
deposited into the county juvenile indigent drivers alcohol 50279  
treatment fund established in the county served by the court; 50280

(iii) If the fee is paid by a person who was charged in a 50281  
municipal court with the violation that resulted in the suspension 50282  
or in the imposition of the court costs, the portion shall be 50283  
deposited into the municipal indigent drivers alcohol treatment 50284  
fund under the control of that court. 50285

(b) Regarding a suspension imposed under section 4511.19 of 50286  
the Revised Code or under section 4510.07 of the Revised Code for 50287  
a violation of a municipal OVI ordinance, that portion of the fee 50288  
shall be deposited as follows: 50289

(i) If the fee is paid by a person whose license or permit 50290  
was suspended by a county court, the portion shall be deposited 50291  
into the county indigent drivers alcohol treatment fund under the 50292  
control of that court; 50293

(ii) If the fee is paid by a person whose license or permit 50294  
was suspended by a municipal court, the portion shall be deposited 50295  
into the municipal indigent drivers alcohol treatment fund under 50296  
the control of that court. 50297

(3) Expenditures from a county indigent drivers alcohol 50298  
treatment fund, a county juvenile indigent drivers alcohol 50299  
treatment fund, or a municipal indigent drivers alcohol treatment 50300  
fund shall be made only upon the order of a county, juvenile, or 50301  
municipal court judge and only for payment of the cost of an 50302  
assessment or the cost of the attendance at an alcohol and drug 50303  
addiction treatment program of a person who is convicted of, or 50304

found to be a juvenile traffic offender by reason of, a violation 50305  
of division (A) of section 4511.19 of the Revised Code or a 50306  
substantially similar municipal ordinance, who is ordered by the 50307  
court to attend the alcohol and drug addiction treatment program, 50308  
and who is determined by the court to be unable to pay the cost of 50309  
the assessment or the cost of attendance at the treatment program 50310  
or for payment of the costs specified in division (H)(4) of this 50311  
section in accordance with that division. The alcohol and drug 50312  
addiction services board or the board of alcohol, drug addiction, 50313  
and mental health services established pursuant to section 340.02 50314  
or 340.021 of the Revised Code and serving the alcohol, drug 50315  
addiction, and mental health service district in which the court 50316  
is located shall administer the indigent drivers alcohol treatment 50317  
program of the court. When a court orders an offender or juvenile 50318  
traffic offender to obtain an assessment or attend an alcohol and 50319  
drug addiction treatment program, the board shall determine which 50320  
program is suitable to meet the needs of the offender or juvenile 50321  
traffic offender, and when a suitable program is located and space 50322  
is available at the program, the offender or juvenile traffic 50323  
offender shall attend the program designated by the board. A 50324  
reasonable amount not to exceed five per cent of the amounts 50325  
credited to and deposited into the county indigent drivers alcohol 50326  
treatment fund, the county juvenile indigent drivers alcohol 50327  
treatment fund, or the municipal indigent drivers alcohol 50328  
treatment fund serving every court whose program is administered 50329  
by that board shall be paid to the board to cover the costs it 50330  
incurs in administering those indigent drivers alcohol treatment 50331  
programs. 50332

In addition, upon exhaustion of moneys in the indigent 50333  
drivers interlock and alcohol monitoring fund for the use of an 50334  
alcohol monitoring device, a county, juvenile, or municipal court 50335  
judge may use moneys in the county indigent drivers alcohol 50336  
treatment fund, county juvenile indigent drivers alcohol treatment 50337

fund, or municipal indigent drivers alcohol treatment fund in the 50338  
following manners: 50339

(a) If the source of the moneys was an appropriation of the 50340  
general assembly, a portion of a fee that was paid under division 50341  
(F) of this section, a portion of a fine that was specified for 50342  
deposit into the fund by section 4511.193 of the Revised Code, or 50343  
a portion of a fine that was paid for a violation of section 50344  
4511.19 of the Revised Code or of a provision contained in Chapter 50345  
4510. of the Revised Code that was required to be deposited into 50346  
the fund, to pay for the continued use of an alcohol monitoring 50347  
device by an offender or juvenile traffic offender, in conjunction 50348  
with a treatment program approved by the department of alcohol and 50349  
drug addiction services, when such use is determined clinically 50350  
necessary by the treatment program and when the court determines 50351  
that the offender or juvenile traffic offender is unable to pay 50352  
all or part of the daily monitoring or cost of the device; 50353

(b) If the source of the moneys was a portion of an 50354  
additional court cost imposed under section 2949.094 of the 50355  
Revised Code, to pay for the continued use of an alcohol 50356  
monitoring device by an offender or juvenile traffic offender when 50357  
the court determines that the offender or juvenile traffic 50358  
offender is unable to pay all or part of the daily monitoring or 50359  
cost of the device. The moneys may be used for a device as 50360  
described in this division if the use of the device is in 50361  
conjunction with a treatment program approved by the department of 50362  
alcohol and drug addiction services, when the use of the device is 50363  
determined clinically necessary by the treatment program, but the 50364  
use of a device is not required to be in conjunction with a 50365  
treatment program approved by the department in order for the 50366  
moneys to be used for the device as described in this division. 50367

(4) If a county, juvenile, or municipal court determines, in 50368  
consultation with the alcohol and drug addiction services board or 50369

the board of alcohol, drug addiction, and mental health services 50370  
established pursuant to section 340.02 or 340.021 of the Revised 50371  
Code and serving the alcohol, drug addiction, and mental health 50372  
district in which the court is located, that the funds in the 50373  
county indigent drivers alcohol treatment fund, the county 50374  
juvenile indigent drivers alcohol treatment fund, or the municipal 50375  
indigent drivers alcohol treatment fund under the control of the 50376  
court are more than sufficient to satisfy the purpose for which 50377  
the fund was established, as specified in divisions (H)(1) to (3) 50378  
of this section, the court may declare a surplus in the fund. If 50379  
the court declares a surplus in the fund, the court may expend the 50380  
amount of the surplus in the fund for: 50381

(a) Alcohol and drug abuse assessment and treatment of 50382  
persons who are charged in the court with committing a criminal 50383  
offense or with being a delinquent child or juvenile traffic 50384  
offender and in relation to whom both of the following apply: 50385

(i) The court determines that substance abuse was a 50386  
contributing factor leading to the criminal or delinquent activity 50387  
or the juvenile traffic offense with which the person is charged. 50388

(ii) The court determines that the person is unable to pay 50389  
the cost of the alcohol and drug abuse assessment and treatment 50390  
for which the surplus money will be used. 50391

(b) All or part of the cost of purchasing alcohol monitoring 50392  
devices to be used in conjunction with division (H)(3) of this 50393  
section, upon exhaustion of moneys in the indigent drivers 50394  
interlock and alcohol monitoring fund for the use of an alcohol 50395  
monitoring device. 50396

(5) For the purpose of determining as described in division 50397  
(F)(2)(c) of this section whether an offender does not have the 50398  
means to pay for the offender's attendance at an alcohol and drug 50399  
addiction treatment program or whether an alleged offender or 50400

delinquent child is unable to pay the costs specified in division 50401  
(H)(4) of this section, the court shall use the indigent client 50402  
eligibility guidelines and the standards of indigency established 50403  
by the state public defender to make the determination. 50404

(6) The court shall identify and refer any alcohol and drug 50405  
addiction program that is not certified under section 3793.06 of 50406  
the Revised Code and that is interested in receiving amounts from 50407  
the surplus in the fund declared under division (H)(4) of this 50408  
section to the department of alcohol and drug addiction services 50409  
in order for the program to become a certified alcohol and drug 50410  
addiction program. The department shall keep a record of applicant 50411  
referrals received pursuant to this division and shall submit a 50412  
report on the referrals each year to the general assembly. If a 50413  
program interested in becoming certified makes an application to 50414  
become certified pursuant to section 3793.06 of the Revised Code, 50415  
the program is eligible to receive surplus funds as long as the 50416  
application is pending with the department. The department of 50417  
alcohol and drug addiction services must offer technical 50418  
assistance to the applicant. If the interested program withdraws 50419  
the certification application, the department must notify the 50420  
court, and the court shall not provide the interested program with 50421  
any further surplus funds. 50422

(7)(a) Each alcohol and drug addiction services board and 50423  
board of alcohol, drug addiction, and mental health services 50424  
established pursuant to section 340.02 or 340.021 of the Revised 50425  
Code shall submit to the department of alcohol and drug addiction 50426  
services an annual report for each indigent drivers alcohol 50427  
treatment fund in that board's area. 50428

(b) The report, which shall be submitted not later than sixty 50429  
days after the end of the state fiscal year, shall provide the 50430  
total payment that was made from the fund, including the number of 50431  
indigent consumers that received treatment services and the number 50432

of indigent consumers that received an alcohol monitoring device. 50433  
The report shall identify the treatment program and expenditure 50434  
for an alcohol monitoring device for which that payment was made. 50435  
The report shall include the fiscal year balance of each indigent 50436  
drivers alcohol treatment fund located in that board's area. In 50437  
the event that a surplus is declared in the fund pursuant to 50438  
division (H)(4) of this section, the report also shall provide the 50439  
total payment that was made from the surplus moneys and identify 50440  
the treatment program and expenditure for an alcohol monitoring 50441  
device for which that payment was made. The department may require 50442  
additional information necessary to complete the comprehensive 50443  
statewide alcohol and drug addiction services plan as required by 50444  
section 3793.04 of the Revised Code. 50445

(c) If a board is unable to obtain adequate information to 50446  
develop the report to submit to the department for a particular 50447  
indigent drivers alcohol treatment fund, the board shall submit a 50448  
report detailing the effort made in obtaining the information. 50449

(I)(1) Each county shall establish an indigent drivers 50450  
interlock and alcohol monitoring fund and a juvenile indigent 50451  
drivers interlock and alcohol treatment fund, and each municipal 50452  
corporation in which there is a municipal court shall establish an 50453  
indigent drivers interlock and alcohol monitoring fund. All 50454  
revenue that the general assembly appropriates to the indigent 50455  
drivers interlock and alcohol monitoring fund for transfer to a 50456  
county indigent drivers interlock and alcohol monitoring fund, a 50457  
county juvenile indigent drivers interlock and alcohol monitoring 50458  
fund, or a municipal indigent drivers interlock and alcohol 50459  
monitoring fund, all portions of license reinstatement fees that 50460  
are paid under division (F)(2) of this section and that are 50461  
credited under that division to the indigent drivers interlock and 50462  
alcohol monitoring fund in the state treasury, and all portions of 50463  
fines that are paid under division (G) of section 4511.19 of the 50464

Revised Code and that are credited by division (G)(5)(e) of that 50465  
section to the indigent drivers interlock and alcohol monitoring 50466  
fund in the state treasury shall be deposited in the appropriate 50467  
fund in accordance with division (I)(2) of this section. 50468

(2) That portion of the license reinstatement fee that is 50469  
paid under division (F) of this section and that portion of the 50470  
fine paid under division (G) of section 4511.19 of the Revised 50471  
Code and that is credited under either division to the indigent 50472  
drivers interlock and alcohol monitoring fund shall be deposited 50473  
into a county indigent drivers interlock and alcohol monitoring 50474  
fund, a county juvenile indigent drivers interlock and alcohol 50475  
monitoring fund, or a municipal indigent drivers interlock and 50476  
alcohol monitoring fund as follows: 50477

(a) If the fee or fine is paid by a person who was charged in 50478  
a county court with the violation that resulted in the suspension 50479  
or fine, the portion shall be deposited into the county indigent 50480  
drivers interlock and alcohol monitoring fund under the control of 50481  
that court. 50482

(b) If the fee or fine is paid by a person who was charged in 50483  
a juvenile court with the violation that resulted in the 50484  
suspension or fine, the portion shall be deposited into the county 50485  
juvenile indigent drivers interlock and alcohol monitoring fund 50486  
established in the county served by the court. 50487

(c) If the fee or fine is paid by a person who was charged in 50488  
a municipal court with the violation that resulted in the 50489  
suspension, the portion shall be deposited into the municipal 50490  
indigent drivers interlock and alcohol monitoring fund under the 50491  
control of that court. 50492

**Sec. 4511.78.** (A) As used in this section: 50493

(1) "Mass transit system" means any county transit system, 50494

regional transit authority, regional transit commission, 50495  
municipally owned transportation system, mass transit company 50496  
operating exclusively within the territorial limits of a municipal 50497  
corporation, or within such limits and the territorial limits of 50498  
municipal corporations immediately contiguous to such municipal 50499  
corporation, and any common passenger carrier ~~certified by the~~ 50500  
~~public utilities commission~~, that provides transportation for 50501  
children to or from a school session or a school function. 50502

(2) "Bus" means every motor vehicle designed for carrying 50503  
more than nine passengers and used for the transportation of 50504  
persons, but does not mean any school bus as defined in section 50505  
4511.01 of the Revised Code. 50506

(B) Whenever a mass transit system transports children to or 50507  
from a school session or school function, the mass transit system 50508  
shall provide for: 50509

(1) Periodic safety inspections of all buses used to provide 50510  
transportation service. The inspections shall be based on rules 50511  
adopted by the public utilities commission under Chapters 4921. 50512  
and 4923. of the Revised Code to ensure the safety of operation of 50513  
~~motor transportation companies and private~~ motor carriers. 50514

(2) The safety training of all drivers operating buses used 50515  
to provide transportation service; 50516

(3) The equipping of every bus with outside rear-view mirrors 50517  
meeting the motor carrier regulations for bus equipment adopted by 50518  
the federal highway administration. No exclusions from this 50519  
requirement granted under the federal regulations shall be 50520  
considered exclusions for the purposes of this division. 50521

(C) Except as otherwise provided in this division, whoever 50522  
violates this section is guilty of a minor misdemeanor. If, within 50523  
one year of the offense, the offender previously has been 50524  
convicted of or pleaded guilty to one predicate motor vehicle or 50525

traffic offense, whoever violates this section is guilty of a 50526  
misdemeanor of the fourth degree. If, within one year of the 50527  
offense, the offender previously has been convicted of two or more 50528  
predicate motor vehicle or traffic offenses, whoever violates this 50529  
section is guilty of a misdemeanor of the third degree. 50530

**Sec. 4511.98.** The director of transportation may establish 50531  
speed limits within construction zones that vary based on the type 50532  
of work being conducted, the time of day, or any other criteria 50533  
the director may consider appropriate. The director, board of 50534  
county commissioners, or board of township trustees shall cause 50535  
signs to be erected advising motorists that increased penalties 50536  
apply for certain traffic violations occurring on streets or 50537  
highways in a construction zone. The increased penalties shall be 50538  
effective only when signs are erected in accordance with the 50539  
guidelines and design specifications established by the director 50540  
under section 5501.27 of the Revised Code, and when a violation 50541  
occurs during hours of actual work within the construction zone. 50542

**Sec. 4513.18.** (A) The director of transportation shall adopt 50543  
standards and specifications applicable to headlights, clearance 50544  
lights, identification, and other lights, on snow removal 50545  
equipment when operated on the highways, and on vehicles operating 50546  
under special permits pursuant to section 4513.34 of the Revised 50547  
Code, in lieu of the lights otherwise required on motor vehicles. 50548  
Such standards and specifications may permit the use of flashing 50549  
colored lights, other than blue or red in color, for purposes of 50550  
identification on snow removal equipment, and oversize vehicles 50551  
when in service upon the highways. The standards and 50552  
specifications for lights referred to in this section shall 50553  
correlate with and, so far as possible, conform with those 50554  
approved by the American association of state highway officials. 50555

It is unlawful to operate snow removal equipment on a highway 50556

unless the lights thereon comply with and are lighted when and as 50557  
required by the standards and specifications adopted as provided 50558  
in this section. 50559

(B) Whoever violates this section is guilty of a minor 50560  
misdemeanor. 50561

**Sec. 4513.263.** (A) As used in this section and in section 50562  
4513.99 of the Revised Code: 50563

(1) "Automobile" means any commercial tractor, passenger car, 50564  
commercial car, or truck that is required to be factory-equipped 50565  
with an occupant restraining device for the operator or any 50566  
passenger by regulations adopted by the United States secretary of 50567  
transportation pursuant to the "National Traffic and Motor Vehicle 50568  
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 50569

(2) "Occupant restraining device" means a seat safety belt, 50570  
shoulder belt, harness, or other safety device for restraining a 50571  
person who is an operator of or passenger in an automobile and 50572  
that satisfies the minimum federal vehicle safety standards 50573  
established by the United States department of transportation. 50574

(3) "Passenger" means any person in an automobile, other than 50575  
its operator, who is occupying a seating position for which an 50576  
occupant restraining device is provided. 50577

(4) "Commercial tractor," "passenger car," and "commercial 50578  
car" have the same meanings as in section 4501.01 of the Revised 50579  
Code. 50580

(5) "Vehicle" and "motor vehicle," as used in the definitions 50581  
of the terms set forth in division (A)(4) of this section, have 50582  
the same meanings as in section 4511.01 of the Revised Code. 50583

(6) "Tort action" means a civil action for damages for 50584  
injury, death, or loss to person or property. "Tort action" 50585  
includes a product liability claim, as defined in section 2307.71 50586

of the Revised Code, and an asbestos claim, as defined in section 50587  
2307.91 of the Revised Code, but does not include a civil action 50588  
for damages for breach of contract or another agreement between 50589  
persons. 50590

(B) No person shall do any of the following: 50591

(1) Operate an automobile on any street or highway unless 50592  
that person is wearing all of the available elements of a properly 50593  
adjusted occupant restraining device, or operate a school bus that 50594  
has an occupant restraining device installed for use in its 50595  
operator's seat unless that person is wearing all of the available 50596  
elements of the device, as properly adjusted; 50597

(2) Operate an automobile on any street or highway unless 50598  
each passenger in the automobile who is subject to the requirement 50599  
set forth in division (B)(3) of this section is wearing all of the 50600  
available elements of a properly adjusted occupant restraining 50601  
device; 50602

(3) Occupy, as a passenger, a seating position on the front 50603  
seat of an automobile being operated on any street or highway 50604  
unless that person is wearing all of the available elements of a 50605  
properly adjusted occupant restraining device; 50606

(4) Operate a taxicab on any street or highway unless all 50607  
factory-equipped occupant restraining devices in the taxicab are 50608  
maintained in usable form. 50609

(C) Division (B)(3) of this section does not apply to a 50610  
person who is required by section 4511.81 of the Revised Code to 50611  
be secured in a child restraint device or booster seat. Division 50612  
(B)(1) of this section does not apply to a person who is an 50613  
employee of the United States postal service or of a newspaper 50614  
home delivery service, during any period in which the person is 50615  
engaged in the operation of an automobile to deliver mail or 50616  
newspapers to addressees. Divisions (B)(1) and (3) of this section 50617

do not apply to a person who has an affidavit signed by a 50618  
physician licensed to practice in this state under Chapter 4731. 50619  
of the Revised Code or a chiropractor licensed to practice in this 50620  
state under Chapter 4734. of the Revised Code that states that the 50621  
person has a physical impairment that makes use of an occupant 50622  
restraining device impossible or impractical. 50623

(D) Notwithstanding any provision of law to the contrary, no 50624  
law enforcement officer shall cause an operator of an automobile 50625  
being operated on any street or highway to stop the automobile for 50626  
the sole purpose of determining whether a violation of division 50627  
(B) of this section has been or is being committed or for the sole 50628  
purpose of issuing a ticket, citation, or summons for a violation 50629  
of that nature or causing the arrest of or commencing a 50630  
prosecution of a person for a violation of that nature, and no law 50631  
enforcement officer shall view the interior or visually inspect 50632  
any automobile being operated on any street or highway for the 50633  
sole purpose of determining whether a violation of that nature has 50634  
been or is being committed. 50635

(E) All fines collected for violations of division (B) of 50636  
this section, or for violations of any ordinance or resolution of 50637  
a political subdivision that is substantively comparable to that 50638  
division, shall be forwarded to the treasurer of state for deposit 50639  
as follows: 50640

~~(1) Eight per cent shall be deposited into the elementary 50641  
school program fund, which is hereby created in the state 50642  
treasury, and shall be used by the department of public safety to 50643  
establish and administer elementary school programs that encourage 50644  
seat safety belt use. 50645~~

~~(2) Two per cent shall be deposited into the occupational 50646  
licensing and regulatory fund created by section 4743.05 of the 50647  
Revised Code. 50648~~

~~(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, plus the fees and other moneys specified in section 4766.05 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 transportation services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code. The director of budget and management may transfer excess money from the trauma and emergency medical services fund to the state highway safety fund if the director of public safety determines that the amount of money in the trauma and emergency medical services fund exceeds the amount required to cover such costs incurred by the emergency medical services agency and the grants made by the state board of emergency medical, fire, and transportation services and requests the director of budget and management to make the transfer.~~

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~~(4) Fifty four per cent shall be deposited into the trauma and emergency medical services grants fund, which is hereby created in the state treasury, and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and rules the board adopts under section 4765.11 of the Revised Code.~~

(F)(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (3) of this section or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(2) of this section shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But, the trier of fact may determine based on evidence admitted consistent with the Ohio Rules of Evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in section 2307.011 of the Revised Code, in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the

available elements of such a device, or was not wearing such a 50714  
device as properly adjusted, then, consistent with the Rules of 50715  
Evidence, the fact that the occupant was not wearing the available 50716  
occupant restraining device, was not wearing all of the available 50717  
elements of such a device, or was not wearing such a device as 50718  
properly adjusted is admissible in evidence in relation to any 50719  
claim for relief in a tort action to the extent that the claim for 50720  
relief satisfies all of the following: 50721

(a) It seeks to recover damages for injury or death to the 50722  
occupant. 50723

(b) The defendant in question is the manufacturer, designer, 50724  
distributor, or seller of the passenger car. 50725

(c) The claim for relief against the defendant in question is 50726  
that the injury or death sustained by the occupant was enhanced or 50727  
aggravated by some design defect in the passenger car or that the 50728  
passenger car was not crashworthy. 50729

(G)(1) Whoever violates division (B)(1) of this section shall 50730  
be fined thirty dollars. 50731

(2) Whoever violates division (B)(3) of this section shall be 50732  
fined twenty dollars. 50733

(3) Except as otherwise provided in this division, whoever 50734  
violates division (B)(4) of this section is guilty of a minor 50735  
misdemeanor. If the offender previously has been convicted of or 50736  
pleaded guilty to a violation of division (B)(4) of this section, 50737  
whoever violates division (B)(4) of this section is guilty of a 50738  
misdemeanor of the third degree. 50739

**Sec. 4513.50.** As used in sections 4513.50 to 4513.53 of the 50740  
Revised Code: 50741

(A)(1) "Bus" means any vehicle used for the transportation of 50742  
passengers that meets at least one of the following: 50743

(a) Was originally designed by the manufacturer to transport more than fifteen passengers, including the driver; 50744  
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(b) Either the gross vehicle weight rating or the gross vehicle weight exceeds ten thousand pounds. 50746  
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(2) "Bus" does not include a church bus as defined in section 4503.07 of the Revised Code or a school bus unless the church bus or school bus is used in the transportation of passengers ~~for hire~~ by a motor ~~transportation company or a common~~ carrier ~~by motor vehicle or by a private motor carrier or contract carrier by motor vehicle.~~ 50748  
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(3) "Bus" also does not include any of the following: 50754

(a) Any vehicle operated exclusively on a rail or rails; 50755

(b) A trolley bus operated by electric power derived from a fixed overhead wire furnishing local passenger transportation similar to street-railway service; 50756  
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(c) Vehicles owned or leased by government agencies or political subdivisions. 50759  
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(B)(1) ~~"Motor transportation company" and "common carrier by motor vehicle"~~ have has the same meanings meaning as in section ~~4921.02~~ 4923.01 of the Revised Code. 50761  
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~~(2) "Private motor carrier" and "contract carrier by motor vehicle" have the same meanings as in section 4923.02 of the Revised Code.~~ 50764  
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**Sec. 4712.01.** As used in sections 4712.01 to 4712.14 of the Revised Code: 50767  
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(A) "Buyer" means an individual who is solicited to purchase or who purchases the services of a credit services organization for purposes other than obtaining a business loan as described in division (B)(6) of section 1343.01 of the Revised Code. 50769  
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(B) "Consumer reporting agency" has the same meaning as in 50773  
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 50774  
as amended. 50775

(C)(1) "Credit services organization" means any person that, 50776  
in return for the payment of money or other valuable consideration 50777  
readily convertible into money for the following services, sells, 50778  
provides, or performs, or represents that the person can or will 50779  
sell, provide, or perform, one or more of the following services: 50780

(a) Improving a buyer's credit record, history, or rating; 50781

(b) Obtaining an extension of credit by others for a buyer; 50782

(c) Providing advice or assistance to a buyer in connection 50783  
with division (C)(1)(a) or (b) of this section; 50784

(d) Removing adverse credit information that is accurate and 50785  
not obsolete from the buyer's credit record, history, or rating; 50786

(e) Altering the buyer's identification to prevent the 50787  
display of the buyer's credit record, history, or rating. 50788

(2) "Credit services organization" does not include any of 50789  
the following: 50790

(a) A person that makes or collects loans, to the extent 50791  
these activities are subject to licensure or registration by this 50792  
state; 50793

(b) A mortgage broker, as defined in section 1322.01 of the 50794  
Revised Code, that holds a valid certificate of registration under 50795  
sections 1322.01 to 1322.12 of the Revised Code; 50796

(c) A lender approved by the United States secretary of 50797  
housing and urban development for participation in a mortgage 50798  
insurance program under the "National Housing Act," 48 Stat. 1246 50799  
(1934), 12 U.S.C.A. 1701, as amended; 50800

(d) A bank, savings bank, or savings and loan association, or 50801  
a subsidiary or an affiliate of a bank, savings bank, or savings 50802

and loan association. For purposes of division (C)(2)(d) of this 50803  
section, "affiliate" has the same meaning as in division (A) of 50804  
section 1101.01 of the Revised Code and "bank," as used in 50805  
division (A) of section 1101.01 of the Revised Code, is deemed to 50806  
include a savings bank or savings and loan association. 50807

(e) A credit union organized and qualified under Chapter 50808  
1733. of the Revised Code or the "Federal Credit Union Act," 84 50809  
Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 50810

(f) A budget and debt counseling service, as defined in 50811  
division (D) of section 2716.03 of the Revised Code, provided that 50812  
the service is a nonprofit organization exempt from taxation under 50813  
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 50814  
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 50815  
in compliance with Chapter 4710. of the Revised Code; 50816

(g) A consumer reporting agency that is in substantial 50817  
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 50818  
U.S.C.A. 1681a, as amended. 50819

(h) A mortgage banker; 50820

(i) Any political subdivision, or any governmental or other 50821  
public entity, corporation, or agency, in or of the United States 50822  
or any state of the United States; 50823

(j) A college or university, or controlled entity of a 50824  
college or university, as defined in section 1713.05 of the 50825  
Revised Code; 50826

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. 50827  
of the Revised Code acting within the scope and authority of that 50828  
license or a motor vehicle auction owner licensed pursuant to 50829  
Chapters 4517. and 4707. of the Revised Code acting within the 50830  
scope and authority of that license; 50831

(l) An attorney at law admitted to the practice of law in 50832

this state who offers, provides, or performs a legal service that 50833  
is privileged by reason of the attorney-client relationship, 50834  
provided that the service is not a service described in division 50835  
(C)(1)(b) or (e) of this section. 50836

(D) "Extension of credit" means the right to defer payment of 50837  
debt, or to incur debt and defer its payment, offered or granted 50838  
primarily for personal, family, or household purposes. "Extension 50839  
of credit" does not include a mortgage. 50840

(E) "Mortgage" means any indebtedness secured by a deed of 50841  
trust, security deed, or other lien on real property. 50842

(F) "Mortgage banker" means any person that makes, services, 50843  
or buys and sells mortgage loans and is approved by the United 50844  
States department of housing and urban development, the United 50845  
States department of veterans affairs, the federal national 50846  
mortgage association, or the federal home loan mortgage 50847  
corporation. 50848

(G) "Superintendent of financial institutions" includes the 50849  
deputy superintendent for consumer finance as provided in section 50850  
1181.21 of the Revised Code. 50851

**Sec. 4723.481.** This section establishes standards and 50852  
conditions regarding the authority of a clinical nurse specialist, 50853  
certified nurse-midwife, or certified nurse practitioner to 50854  
prescribe drugs and therapeutic devices under a certificate to 50855  
prescribe issued under section 4723.481 of the Revised Code. 50856

(A) A clinical nurse specialist, certified nurse-midwife, or 50857  
certified nurse practitioner shall not prescribe any drug or 50858  
therapeutic device that is not included in the types of drugs and 50859  
devices listed on the formulary established in rules adopted under 50860  
section 4723.50 of the Revised Code. 50861

(B) The prescriptive authority of a clinical nurse 50862

specialist, certified nurse-midwife, or certified nurse 50863  
practitioner shall not exceed the prescriptive authority of the 50864  
collaborating physician or podiatrist, including the collaborating 50865  
physician's authority to treat chronic pain with controlled 50866  
substances and products containing tramadol as described in 50867  
section 4731.052 of the Revised Code. 50868

(C)(1) Except as provided in division (C)(2) or (3) of this 50869  
section, a clinical nurse specialist, certified nurse-midwife, or 50870  
certified nurse practitioner may prescribe to a patient a schedule 50871  
II controlled substance only if all of the following are the case: 50872

(a) The patient has a terminal condition, as defined in 50873  
section 2133.01 of the Revised Code. 50874

(b) The collaborating physician of the clinical nurse 50875  
specialist, certified nurse-midwife, or certified nurse 50876  
practitioner initially prescribed the substance for the patient. 50877

(c) The prescription is for an amount that does not exceed 50878  
the amount necessary for the patient's use in a single, 50879  
twenty-four hour period. 50880

(2) The restrictions on prescriptive authority in division 50881  
(C)(1) of this section do not apply if a clinical nurse 50882  
specialist, certified nurse-midwife, or certified nurse 50883  
practitioner issues the prescription to the patient from any of 50884  
the following locations: 50885

(a) A hospital registered under section 3701.07 of the 50886  
Revised Code; 50887

(b) An entity owned or controlled, in whole or in part, by a 50888  
hospital or by an entity that owns or controls, in whole or in 50889  
part, one or more hospitals; 50890

(c) A health care facility operated by the department of 50891  
mental health or the department of developmental disabilities; 50892

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| (d) 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;  | 50893<br>50894<br>50895  |
| (e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;   | 50896<br>50897<br>50898  |
| (f) A hospice care program, as defined in section 3712.01 of the Revised Code;  | 50899<br>50900   |
| (g) A community mental health agency, as defined in section 5122.01 of the Revised Code;  | 50901<br>50902   |
| (h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;   | 50903<br>50904   |
| (i) A freestanding birthing center, as defined in section 3702.51 of the Revised Code;  | 50905<br>50906   |
| (j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;  | 50907<br>50908   |
| (k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;   | 50909<br>50910   |
| (l) 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;  | 50911<br>50912<br>50913<br>50914                                     |
| (m) 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 clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site. | 50915<br>50916<br>50917<br>50918<br>50919<br>50920<br>50921<br>50922 |

(3) A clinical nurse specialist, certified nurse-midwife, or 50923  
certified nurse practitioner shall not issue to a patient a 50924  
prescription for a schedule II controlled substance from a 50925  
convenience care clinic even if the clinic is owned or operated by 50926  
an entity specified in division (C)(2) of this section. 50927

(D) A pharmacist who acts in good faith reliance on a 50928  
prescription issued by a clinical nurse specialist, certified 50929  
nurse-midwife, or certified nurse practitioner under division 50930  
(C)(2) of this section is not liable for or subject to any of the 50931  
following for relying on the prescription: damages in any civil 50932  
action, prosecution in any criminal proceeding, or professional 50933  
disciplinary action by the state board of pharmacy under Chapter 50934  
4729. of the Revised Code. 50935

(E) A clinical nurse specialist, certified nurse-midwife, or 50936  
certified nurse practitioner may personally furnish to a patient a 50937  
sample of any drug or therapeutic device included in the types of 50938  
drugs and devices listed on the formulary, except that all of the 50939  
following conditions apply: 50940

(1) The amount of the sample furnished shall not exceed a 50941  
seventy-two-hour supply, except when the minimum available 50942  
quantity of the sample is packaged in an amount that is greater 50943  
than a seventy-two-hour supply, in which case the packaged amount 50944  
may be furnished. 50945

(2) No charge may be imposed for the sample or for furnishing 50946  
it. 50947

(3) Samples of controlled substances may not be personally 50948  
furnished. 50949

(F) A clinical nurse specialist, certified nurse-midwife, or 50950  
certified nurse practitioner may personally furnish to a patient a 50951  
complete or partial supply of a drug or therapeutic device 50952  
included in the types of drugs and devices listed on the 50953

formulary, except that all of the following conditions apply: 50954

(1) The clinical nurse specialist, certified nurse-midwife, 50955  
or certified nurse practitioner shall personally furnish only 50956  
antibiotics, antifungals, scabicides, contraceptives, prenatal 50957  
vitamins, antihypertensives, drugs and devices used in the 50958  
treatment of diabetes, drugs and devices used in the treatment of 50959  
asthma, and drugs used in the treatment of dyslipidemia. 50960

(2) The clinical nurse specialist, certified nurse-midwife, 50961  
or certified nurse practitioner shall not furnish the drugs and 50962  
devices in locations other than a health department operated by 50963  
the board of health of a city or general health district or the 50964  
authority having the duties of a board of health under section 50965  
3709.05 of the Revised Code, a federally funded comprehensive 50966  
primary care clinic, or a nonprofit health care clinic or program. 50967

(3) The clinical nurse specialist, certified nurse-midwife, 50968  
or certified nurse practitioner shall comply with all safety 50969  
standards for personally furnishing supplies of drugs and devices, 50970  
as established in rules adopted under section 4723.50 of the 50971  
Revised Code. 50972

**Sec. 4730.42.** (A) In granting physician-delegated 50973  
prescriptive authority to a particular physician assistant who 50974  
holds a certificate to prescribe issued under this chapter, the 50975  
supervising physician is subject to all of the following: 50976

(1) The supervising physician shall not grant 50977  
physician-delegated prescriptive authority for any drug or 50978  
therapeutic device that is not listed on the formulary established 50979  
in rules adopted under section 4730.39 of the Revised Code as a 50980  
drug or therapeutic device that may be included in the 50981  
physician-delegated prescriptive authority granted to a physician 50982  
assistant. 50983

(2) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or device that may be used to perform or induce an abortion.

(3) The supervising physician shall not grant physician-delegated prescriptive authority in a manner that exceeds the supervising physician's prescriptive authority, including the physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

(4) The supervising physician shall supervise the physician assistant in accordance with all of the following:

(a) The supervision requirements specified in section 4730.21 of the Revised Code and, in the case of supervision provided during a provisional period of physician-delegated prescriptive authority, the supervision requirements specified in section 4730.45 of the Revised Code;

(b) The physician supervisory plan approved for the supervising physician or the policies of the health care facility in which the physician and physician assistant are practicing;

(c) The supervision agreement approved under section 4730.19 of the Revised Code that applies to the supervising physician and the physician assistant.

(B)(1) The supervising physician of a physician assistant may place conditions on the physician-delegated prescriptive authority granted to the physician assistant. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request.

(2) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to a physician assistant include the following:

(a) Identification by class and specific generic nomenclature of drugs and therapeutic devices that the physician chooses not to permit the physician assistant to prescribe;

(b) Limitations on the dosage units or refills that the physician assistant is authorized to prescribe;

(c) Specification of circumstances under which the physician assistant is required to refer patients to the supervising physician or another physician when exercising physician-delegated prescriptive authority;

(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.

**Sec. 4731.052.** (A) As used in this section:

(1) ~~"Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.~~

~~(2)~~ "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

(2) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(3) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

(B) The state medical board shall adopt rules in accordance

with Chapter 119. of the Revised Code that establish standards and 51045  
procedures to be followed by physicians in the diagnosis and 51046  
treatment of chronic pain, including standards for a physician's 51047  
consultation with one or more other physicians who specialize in 51048  
the treatment of the area, system, or organ of the body perceived 51049  
as the source of pain and managing chronic pain by prescribing, 51050  
personally furnishing, or administering ~~dangerous drugs in amounts~~ 51051  
~~or combinations that may not be appropriate when treating other~~ 51052  
~~medical conditions. In developing the rules, the board shall~~ 51053  
~~consult with and permit review by physicians who are experienced~~ 51054  
~~in the diagnosis and treatment of chronic pain~~ controlled 51055  
substances or products containing tramadol. 51056

(C) When a physician diagnoses ~~an individual~~ a patient as 51057  
having chronic pain, the physician may, subject to division (D) of 51058  
this section, treat the pain by managing it with ~~dangerous drugs~~ 51059  
~~in amounts or combinations that may not be appropriate when~~ 51060  
~~treating other medical conditions~~ controlled substances and 51061  
products containing tramadol. The physician's diagnosis and 51062  
treatment decisions shall be made ~~after having the individual~~ 51063  
~~according to accepted and prevailing standards for medical care.~~ 51064  
For the purpose of assisting with the diagnosis of chronic pain, 51065  
the physician shall obtain and review all available medical 51066  
records or detailed written summaries of the patient's treatment 51067  
for chronic pain or the condition causing the chronic pain. It is 51068  
recommended that the physician also consider having the patient 51069  
evaluated by one or more other physicians who specialize in the 51070  
treatment of the area, system, or organ of the body perceived as 51071  
the source of the pain. ~~The physician's diagnosis and treatment~~ 51072  
~~decisions shall be made according to accepted and prevailing~~ 51073  
~~standards for medical care. The~~ 51074

(D) For each patient a physician diagnoses as having chronic 51075  
pain, the physician shall maintain a written record of all of the 51076

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| following:   | 51077   |
| (1) Medical history and physical examination of the<br><del>individual patient</del> ;   | 51078<br>51079  |
| (2) The diagnosis of chronic pain, including signs, symptoms,<br>and causes;   | 51080<br>51081  |
| (3) The plan of treatment proposed, the patient's response to<br>treatment, and any modification to the plan of treatment <del>+</del> ,<br><u>including all of the following:</u>   | 51082<br>51083<br>51084                                     |
| (a) <u>Documentation that other medically reasonable treatments<br/>for relief of the patient's chronic pain have been offered or<br/>attempted without adequate or reasonable success;</u>  | 51085<br>51086<br>51087                                     |
| (b) <u>Periodic assessment and documentation of the patient's<br/>functional status, including the ability to engage in work or<br/>other purposeful activities, the pain intensity and its<br/>interference with activities of daily living, quality of family<br/>life and social activities, and physical activity of the patient;</u>  | 51088<br>51089<br>51090<br>51091<br>51092                   |
| (c) <u>Periodic assessment and documentation of the patient's<br/>progress toward treatment objectives, including the intended role<br/>of controlled substances or products containing tramadol within<br/>the overall plan of treatment;</u>   | 51093<br>51094<br>51095<br>51096                            |
| (d) <u>Periodic assessment and documentation for indicators of<br/>possible addiction, drug abuse, or drug diversion;</u>  | 51097<br>51098  |
| (e) <u>Notation of any adverse drug effects.</u>   | 51099   |
| (4) The dates on which <del>dangerous drugs</del> <u>controlled substances<br/>or products containing tramadol</u> were prescribed, furnished, or<br>administered, the name and address of the <del>individual patient</del> to or<br>for whom the <del>dangerous drugs</del> <u>controlled substances or products<br/>containing tramadol</u> were prescribed, <del>dispensed</del> <u>furnished</u> , or<br>administered, and the amounts and dosage forms for the <del>dangerous<br/>drugs</del> <u>controlled substances or products containing tramadol</u> | 51100<br>51101<br>51102<br>51103<br>51104<br>51105<br>51106 |

prescribed, furnished, or administered; 51107

(5) A copy of ~~the any record or report made by the another~~ 51108  
~~physician or the physician to whom referral for evaluation was~~ 51109  
~~made under this division~~ that was used or consulted for the 51110  
purpose of diagnosing the patient's chronic pain or treating the 51111  
patient for chronic pain. 51112

(E) A physician shall not prescribe, personally furnish, or 51113  
administer to a patient a controlled substance or product 51114  
containing tramadol without taking into account the potential for 51115  
abuse of the controlled substance or product, the possibility the 51116  
controlled substance or product may lead to dependence, the 51117  
possibility the patient will obtain the controlled substance or 51118  
product for a nontherapeutic use or distribute it to other 51119  
persons, and the potential existence of an illicit market for the 51120  
controlled substance or product. In addition, the physician shall 51121  
address with the patient the risks associated with protracted 51122  
treatment with controlled substances or products containing 51123  
tramadol, including informing the patient of the potential for 51124  
dependence, tolerance, and addiction and the clinical or 51125  
monitoring tools the physician may use if signs of addiction, drug 51126  
abuse, or drug diversion are present. 51127

~~(D)~~(F) A physician who treats chronic pain by managing it 51128  
with ~~dangerous drugs~~ controlled substances or products containing 51129  
tramadol is not subject to disciplinary action by the board under 51130  
section 4731.22 of the Revised Code solely because the physician 51131  
treated the chronic pain with ~~dangerous drugs~~ controlled 51132  
substances or products containing tramadol. 51133

**Sec. 4731.22.** (A) The state medical board, by an affirmative 51134  
vote of not fewer than six of its members, may revoke or may 51135  
refuse to grant a certificate to a person found by the board to 51136  
have committed fraud during the administration of the examination 51137

for a certificate to practice or to have committed fraud, 51138  
misrepresentation, or deception in applying for or securing any 51139  
certificate to practice or certificate of registration issued by 51140  
the board. 51141

(B) The board, by an affirmative vote of not fewer than six 51142  
members, shall, to the extent permitted by law, limit, revoke, or 51143  
suspend an individual's certificate to practice, refuse to 51144  
register an individual, refuse to reinstate a certificate, or 51145  
reprimand or place on probation the holder of a certificate for 51146  
one or more of the following reasons: 51147

(1) Permitting one's name or one's certificate to practice or 51148  
certificate of registration to be used by a person, group, or 51149  
corporation when the individual concerned is not actually 51150  
directing the treatment given; 51151

(2) Failure to maintain minimal standards applicable to the 51152  
selection or administration of drugs, or failure to employ 51153  
acceptable scientific methods in the selection of drugs or other 51154  
modalities for treatment of disease; 51155

(3) Selling, giving away, personally furnishing, prescribing, 51156  
or administering drugs for other than legal and legitimate 51157  
therapeutic purposes or a plea of guilty to, a judicial finding of 51158  
guilt of, or a judicial finding of eligibility for intervention in 51159  
lieu of conviction of, a violation of any federal or state law 51160  
regulating the possession, distribution, or use of any drug; 51161

(4) Willfully betraying a professional confidence. 51162

For purposes of this division, "willfully betraying a 51163  
professional confidence" does not include providing any 51164  
information, documents, or reports to a child fatality review 51165  
board under sections 307.621 to 307.629 of the Revised Code and 51166  
does not include the making of a report of an employee's use of a 51167  
drug of abuse, or a report of a condition of an employee other 51168

than one involving the use of a drug of abuse, to the employer of 51169  
the employee as described in division (B) of section 2305.33 of 51170  
the Revised Code. Nothing in this division affects the immunity 51171  
from civil liability conferred by that section upon a physician 51172  
who makes either type of report in accordance with division (B) of 51173  
that section. As used in this division, "employee," "employer," 51174  
and "physician" have the same meanings as in section 2305.33 of 51175  
the Revised Code. 51176

(5) Making a false, fraudulent, deceptive, or misleading 51177  
statement in the solicitation of or advertising for patients; in 51178  
relation to the practice of medicine and surgery, osteopathic 51179  
medicine and surgery, podiatric medicine and surgery, or a limited 51180  
branch of medicine; or in securing or attempting to secure any 51181  
certificate to practice or certificate of registration issued by 51182  
the board. 51183

As used in this division, "false, fraudulent, deceptive, or 51184  
misleading statement" means a statement that includes a 51185  
misrepresentation of fact, is likely to mislead or deceive because 51186  
of a failure to disclose material facts, is intended or is likely 51187  
to create false or unjustified expectations of favorable results, 51188  
or includes representations or implications that in reasonable 51189  
probability will cause an ordinarily prudent person to 51190  
misunderstand or be deceived. 51191

(6) A departure from, or the failure to conform to, minimal 51192  
standards of care of similar practitioners under the same or 51193  
similar circumstances, whether or not actual injury to a patient 51194  
is established; 51195

(7) Representing, with the purpose of obtaining compensation 51196  
or other advantage as personal gain or for any other person, that 51197  
an incurable disease or injury, or other incurable condition, can 51198  
be permanently cured; 51199

- (8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; 51200  
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- (9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony; 51203  
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- (10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; 51206  
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- (11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice; 51209  
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- (12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 51212  
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- (13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude; 51215  
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- (14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed; 51218  
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- (15) Violation of the conditions of limitation placed by the board upon a certificate to practice; 51221  
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- (16) Failure to pay license renewal fees specified in this chapter; 51223  
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- (17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business; 51225  
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- (18) Subject to section 4731.226 of the Revised Code, 51229

violation of any provision of a code of ethics of the American 51230  
medical association, the American osteopathic association, the 51231  
American podiatric medical association, or any other national 51232  
professional organizations that the board specifies by rule. The 51233  
state medical board shall obtain and keep on file current copies 51234  
of the codes of ethics of the various national professional 51235  
organizations. The individual whose certificate is being suspended 51236  
or revoked shall not be found to have violated any provision of a 51237  
code of ethics of an organization not appropriate to the 51238  
individual's profession. 51239

For purposes of this division, a "provision of a code of 51240  
ethics of a national professional organization" does not include 51241  
any provision that would preclude the making of a report by a 51242  
physician of an employee's use of a drug of abuse, or of a 51243  
condition of an employee other than one involving the use of a 51244  
drug of abuse, to the employer of the employee as described in 51245  
division (B) of section 2305.33 of the Revised Code. Nothing in 51246  
this division affects the immunity from civil liability conferred 51247  
by that section upon a physician who makes either type of report 51248  
in accordance with division (B) of that section. As used in this 51249  
division, "employee," "employer," and "physician" have the same 51250  
meanings as in section 2305.33 of the Revised Code. 51251

(19) Inability to practice according to acceptable and 51252  
prevailing standards of care by reason of mental illness or 51253  
physical illness, including, but not limited to, physical 51254  
deterioration that adversely affects cognitive, motor, or 51255  
perceptive skills. 51256

In enforcing this division, the board, upon a showing of a 51257  
possible violation, may compel any individual authorized to 51258  
practice by this chapter or who has submitted an application 51259  
pursuant to this chapter to submit to a mental examination, 51260  
physical examination, including an HIV test, or both a mental and 51261

a physical examination. The expense of the examination is the 51262  
responsibility of the individual compelled to be examined. Failure 51263  
to submit to a mental or physical examination or consent to an HIV 51264  
test ordered by the board constitutes an admission of the 51265  
allegations against the individual unless the failure is due to 51266  
circumstances beyond the individual's control, and a default and 51267  
final order may be entered without the taking of testimony or 51268  
presentation of evidence. If the board finds an individual unable 51269  
to practice because of the reasons set forth in this division, the 51270  
board shall require the individual to submit to care, counseling, 51271  
or treatment by physicians approved or designated by the board, as 51272  
a condition for initial, continued, reinstated, or renewed 51273  
authority to practice. An individual affected under this division 51274  
shall be afforded an opportunity to demonstrate to the board the 51275  
ability to resume practice in compliance with acceptable and 51276  
prevailing standards under the provisions of the individual's 51277  
certificate. For the purpose of this division, any individual who 51278  
applies for or receives a certificate to practice under this 51279  
chapter accepts the privilege of practicing in this state and, by 51280  
so doing, shall be deemed to have given consent to submit to a 51281  
mental or physical examination when directed to do so in writing 51282  
by the board, and to have waived all objections to the 51283  
admissibility of testimony or examination reports that constitute 51284  
a privileged communication. 51285

(20) Except when civil penalties are imposed under section 51286  
4731.225 or 4731.281 of the Revised Code, and subject to section 51287  
4731.226 of the Revised Code, violating or attempting to violate, 51288  
directly or indirectly, or assisting in or abetting the violation 51289  
of, or conspiring to violate, any provisions of this chapter or 51290  
any rule promulgated by the board. 51291

This division does not apply to a violation or attempted 51292  
violation of, assisting in or abetting the violation of, or a 51293

conspiracy to violate, any provision of this chapter or any rule 51294  
adopted by the board that would preclude the making of a report by 51295  
a physician of an employee's use of a drug of abuse, or of a 51296  
condition of an employee other than one involving the use of a 51297  
drug of abuse, to the employer of the employee as described in 51298  
division (B) of section 2305.33 of the Revised Code. Nothing in 51299  
this division affects the immunity from civil liability conferred 51300  
by that section upon a physician who makes either type of report 51301  
in accordance with division (B) of that section. As used in this 51302  
division, "employee," "employer," and "physician" have the same 51303  
meanings as in section 2305.33 of the Revised Code. 51304

(21) The violation of section 3701.79 of the Revised Code or 51305  
of any abortion rule adopted by the ~~public~~ director of health 51306  
~~council~~ pursuant to section 3701.341 of the Revised Code; 51307

(22) Any of the following actions taken by an agency 51308  
responsible for authorizing, certifying, or regulating an 51309  
individual to practice a health care occupation or provide health 51310  
care services in this state or another jurisdiction, for any 51311  
reason other than the nonpayment of fees: the limitation, 51312  
revocation, or suspension of an individual's license to practice; 51313  
acceptance of an individual's license surrender; denial of a 51314  
license; refusal to renew or reinstate a license; imposition of 51315  
probation; or issuance of an order of censure or other reprimand; 51316

(23) The violation of section 2919.12 of the Revised Code or 51317  
the performance or inducement of an abortion upon a pregnant woman 51318  
with actual knowledge that the conditions specified in division 51319  
(B) of section 2317.56 of the Revised Code have not been satisfied 51320  
or with a heedless indifference as to whether those conditions 51321  
have been satisfied, unless an affirmative defense as specified in 51322  
division (H)(2) of that section would apply in a civil action 51323  
authorized by division (H)(1) of that section; 51324

(24) The revocation, suspension, restriction, reduction, or 51325

termination of clinical privileges by the United States department 51326  
of defense or department of veterans affairs or the termination or 51327  
suspension of a certificate of registration to prescribe drugs by 51328  
the drug enforcement administration of the United States 51329  
department of justice; 51330

(25) Termination or suspension from participation in the 51331  
medicare or medicaid programs by the department of health and 51332  
human services or other responsible agency for any act or acts 51333  
that also would constitute a violation of division (B)(2), (3), 51334  
(6), (8), or (19) of this section; 51335

(26) Impairment of ability to practice according to 51336  
acceptable and prevailing standards of care because of habitual or 51337  
excessive use or abuse of drugs, alcohol, or other substances that 51338  
impair ability to practice. 51339

For the purposes of this division, any individual authorized 51340  
to practice by this chapter accepts the privilege of practicing in 51341  
this state subject to supervision by the board. By filing an 51342  
application for or holding a certificate to practice under this 51343  
chapter, an individual shall be deemed to have given consent to 51344  
submit to a mental or physical examination when ordered to do so 51345  
by the board in writing, and to have waived all objections to the 51346  
admissibility of testimony or examination reports that constitute 51347  
privileged communications. 51348

If it has reason to believe that any individual authorized to 51349  
practice by this chapter or any applicant for certification to 51350  
practice suffers such impairment, the board may compel the 51351  
individual to submit to a mental or physical examination, or both. 51352  
The expense of the examination is the responsibility of the 51353  
individual compelled to be examined. Any mental or physical 51354  
examination required under this division shall be undertaken by a 51355  
treatment provider or physician who is qualified to conduct the 51356  
examination and who is chosen by the board. 51357

Failure to submit to a mental or physical examination ordered 51358  
by the board constitutes an admission of the allegations against 51359  
the individual unless the failure is due to circumstances beyond 51360  
the individual's control, and a default and final order may be 51361  
entered without the taking of testimony or presentation of 51362  
evidence. If the board determines that the individual's ability to 51363  
practice is impaired, the board shall suspend the individual's 51364  
certificate or deny the individual's application and shall require 51365  
the individual, as a condition for initial, continued, reinstated, 51366  
or renewed certification to practice, to submit to treatment. 51367

Before being eligible to apply for reinstatement of a 51368  
certificate suspended under this division, the impaired 51369  
practitioner shall demonstrate to the board the ability to resume 51370  
practice in compliance with acceptable and prevailing standards of 51371  
care under the provisions of the practitioner's certificate. The 51372  
demonstration shall include, but shall not be limited to, the 51373  
following: 51374

(a) Certification from a treatment provider approved under 51375  
section 4731.25 of the Revised Code that the individual has 51376  
successfully completed any required inpatient treatment; 51377

(b) Evidence of continuing full compliance with an aftercare 51378  
contract or consent agreement; 51379

(c) Two written reports indicating that the individual's 51380  
ability to practice has been assessed and that the individual has 51381  
been found capable of practicing according to acceptable and 51382  
prevailing standards of care. The reports shall be made by 51383  
individuals or providers approved by the board for making the 51384  
assessments and shall describe the basis for their determination. 51385

The board may reinstate a certificate suspended under this 51386  
division after that demonstration and after the individual has 51387  
entered into a written consent agreement. 51388

When the impaired practitioner resumes practice, the board 51389  
shall require continued monitoring of the individual. The 51390  
monitoring shall include, but not be limited to, compliance with 51391  
the written consent agreement entered into before reinstatement or 51392  
with conditions imposed by board order after a hearing, and, upon 51393  
termination of the consent agreement, submission to the board for 51394  
at least two years of annual written progress reports made under 51395  
penalty of perjury stating whether the individual has maintained 51396  
sobriety. 51397

(27) A second or subsequent violation of section 4731.66 or 51398  
4731.69 of the Revised Code; 51399

(28) Except as provided in division (N) of this section: 51400

(a) Waiving the payment of all or any part of a deductible or 51401  
copayment that a patient, pursuant to a health insurance or health 51402  
care policy, contract, or plan that covers the individual's 51403  
services, otherwise would be required to pay if the waiver is used 51404  
as an enticement to a patient or group of patients to receive 51405  
health care services from that individual; 51406

(b) Advertising that the individual will waive the payment of 51407  
all or any part of a deductible or copayment that a patient, 51408  
pursuant to a health insurance or health care policy, contract, or 51409  
plan that covers the individual's services, otherwise would be 51410  
required to pay. 51411

(29) Failure to use universal blood and body fluid 51412  
precautions established by rules adopted under section 4731.051 of 51413  
the Revised Code; 51414

(30) Failure to provide notice to, and receive acknowledgment 51415  
of the notice from, a patient when required by section 4731.143 of 51416  
the Revised Code prior to providing nonemergency professional 51417  
services, or failure to maintain that notice in the patient's 51418  
file; 51419

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| (31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;   | 51420<br>51421<br>51422<br>51423  |
| (32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;  | 51424<br>51425<br>51426<br>51427<br>51428<br>51429<br>51430                   |
| (33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;   | 51431<br>51432<br>51433   |
| (34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue; | 51434<br>51435<br>51436<br>51437<br>51438<br>51439<br>51440<br>51441<br>51442 |
| (35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;   | 51443<br>51444<br>51445   |
| (36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;   | 51446<br>51447<br>51448   |
| (37) Assisting suicide as defined in section 3795.01 of the Revised Code;  | 51449<br>51450  |

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| (38) Failure to comply with the requirements of section 2317.561 of the Revised Code;  | 51451<br>51452  |
| (39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;  | 51453<br>51454<br>51455                                     |
| (40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;  | 51456<br>51457<br>51458                                     |
| (41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;  | 51459<br>51460<br>51461<br>51462                            |
| (42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;   | 51463<br>51464<br>51465<br>51466                            |
| (43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;   | 51467<br>51468<br>51469<br>51470                            |
| <del>(41)</del> (44) Failure to comply with the requirements of section 2919.171 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code.   | 51471<br>51472<br>51473<br>51474                            |
| (C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than | 51475<br>51476<br>51477<br>51478<br>51479<br>51480<br>51481 |

six members of the board, shall constitute the findings and order 51482  
of the board with respect to the matter addressed in the 51483  
agreement. If the board refuses to ratify a consent agreement, the 51484  
admissions and findings contained in the consent agreement shall 51485  
be of no force or effect. 51486

A telephone conference call may be utilized for ratification 51487  
of a consent agreement that revokes or suspends an individual's 51488  
certificate to practice. The telephone conference call shall be 51489  
considered a special meeting under division (F) of section 121.22 51490  
of the Revised Code. 51491

If the board takes disciplinary action against an individual 51492  
under division (B) of this section for a second or subsequent plea 51493  
of guilty to, or judicial finding of guilt of, a violation of 51494  
section 2919.123 of the Revised Code, the disciplinary action 51495  
shall consist of a suspension of the individual's certificate to 51496  
practice for a period of at least one year or, if determined 51497  
appropriate by the board, a more serious sanction involving the 51498  
individual's certificate to practice. Any consent agreement 51499  
entered into under this division with an individual that pertains 51500  
to a second or subsequent plea of guilty to, or judicial finding 51501  
of guilt of, a violation of that section shall provide for a 51502  
suspension of the individual's certificate to practice for a 51503  
period of at least one year or, if determined appropriate by the 51504  
board, a more serious sanction involving the individual's 51505  
certificate to practice. 51506

(D) For purposes of divisions (B)(10), (12), and (14) of this 51507  
section, the commission of the act may be established by a finding 51508  
by the board, pursuant to an adjudication under Chapter 119. of 51509  
the Revised Code, that the individual committed the act. The board 51510  
does not have jurisdiction under those divisions if the trial 51511  
court renders a final judgment in the individual's favor and that 51512  
judgment is based upon an adjudication on the merits. The board 51513

has jurisdiction under those divisions if the trial court issues 51514  
an order of dismissal upon technical or procedural grounds. 51515

(E) The sealing of conviction records by any court shall have 51516  
no effect upon a prior board order entered under this section or 51517  
upon the board's jurisdiction to take action under this section 51518  
if, based upon a plea of guilty, a judicial finding of guilt, or a 51519  
judicial finding of eligibility for intervention in lieu of 51520  
conviction, the board issued a notice of opportunity for a hearing 51521  
prior to the court's order to seal the records. The board shall 51522  
not be required to seal, destroy, redact, or otherwise modify its 51523  
records to reflect the court's sealing of conviction records. 51524

(F)(1) The board shall investigate evidence that appears to 51525  
show that a person has violated any provision of this chapter or 51526  
any rule adopted under it. Any person may report to the board in a 51527  
signed writing any information that the person may have that 51528  
appears to show a violation of any provision of this chapter or 51529  
any rule adopted under it. In the absence of bad faith, any person 51530  
who reports information of that nature or who testifies before the 51531  
board in any adjudication conducted under Chapter 119. of the 51532  
Revised Code shall not be liable in damages in a civil action as a 51533  
result of the report or testimony. Each complaint or allegation of 51534  
a violation received by the board shall be assigned a case number 51535  
and shall be recorded by the board. 51536

(2) Investigations of alleged violations of this chapter or 51537  
any rule adopted under it shall be supervised by the supervising 51538  
member elected by the board in accordance with section 4731.02 of 51539  
the Revised Code and by the secretary as provided in section 51540  
4731.39 of the Revised Code. The president may designate another 51541  
member of the board to supervise the investigation in place of the 51542  
supervising member. No member of the board who supervises the 51543  
investigation of a case shall participate in further adjudication 51544  
of the case. 51545

(3) In investigating a possible violation of this chapter or 51546  
any rule adopted under this chapter, the board may administer 51547  
oaths, order the taking of depositions, inspect and copy any 51548  
books, accounts, papers, records, or documents, issue subpoenas, 51549  
and compel the attendance of witnesses and production of books, 51550  
accounts, papers, records, documents, and testimony, except that a 51551  
subpoena for patient record information shall not be issued 51552  
without consultation with the attorney general's office and 51553  
approval of the secretary and supervising member of the board. 51554  
Before issuance of a subpoena for patient record information, the 51555  
secretary and supervising member shall determine whether there is 51556  
probable cause to believe that the complaint filed alleges a 51557  
violation of this chapter or any rule adopted under it and that 51558  
the records sought are relevant to the alleged violation and 51559  
material to the investigation. The subpoena may apply only to 51560  
records that cover a reasonable period of time surrounding the 51561  
alleged violation. 51562

On failure to comply with any subpoena issued by the board 51563  
and after reasonable notice to the person being subpoenaed, the 51564  
board may move for an order compelling the production of persons 51565  
or records pursuant to the Rules of Civil Procedure. 51566

A subpoena issued by the board may be served by a sheriff, 51567  
the sheriff's deputy, or a board employee designated by the board. 51568  
Service of a subpoena issued by the board may be made by 51569  
delivering a copy of the subpoena to the person named therein, 51570  
reading it to the person, or leaving it at the person's usual 51571  
place of residence. When the person being served is a person whose 51572  
practice is authorized by this chapter, service of the subpoena 51573  
may be made by certified mail, restricted delivery, return receipt 51574  
requested, and the subpoena shall be deemed served on the date 51575  
delivery is made or the date the person refuses to accept 51576  
delivery. 51577

A sheriff's deputy who serves a subpoena shall receive the 51578  
same fees as a sheriff. Each witness who appears before the board 51579  
in obedience to a subpoena shall receive the fees and mileage 51580  
provided for under section 119.094 of the Revised Code. 51581

(4) All hearings and investigations of the board shall be 51582  
considered civil actions for the purposes of section 2305.252 of 51583  
the Revised Code. 51584

(5) Information received by the board pursuant to an 51585  
investigation is confidential and not subject to discovery in any 51586  
civil action. 51587

The board shall conduct all investigations and proceedings in 51588  
a manner that protects the confidentiality of patients and persons 51589  
who file complaints with the board. The board shall not make 51590  
public the names or any other identifying information about 51591  
patients or complainants unless proper consent is given or, in the 51592  
case of a patient, a waiver of the patient privilege exists under 51593  
division (B) of section 2317.02 of the Revised Code, except that 51594  
consent or a waiver of that nature is not required if the board 51595  
possesses reliable and substantial evidence that no bona fide 51596  
physician-patient relationship exists. 51597

The board may share any information it receives pursuant to 51598  
an investigation, including patient records and patient record 51599  
information, with law enforcement agencies, other licensing 51600  
boards, and other governmental agencies that are prosecuting, 51601  
adjudicating, or investigating alleged violations of statutes or 51602  
administrative rules. An agency or board that receives the 51603  
information shall comply with the same requirements regarding 51604  
confidentiality as those with which the state medical board must 51605  
comply, notwithstanding any conflicting provision of the Revised 51606  
Code or procedure of the agency or board that applies when it is 51607  
dealing with other information in its possession. In a judicial 51608  
proceeding, the information may be admitted into evidence only in 51609

accordance with the Rules of Evidence, but the court shall require 51610  
that appropriate measures are taken to ensure that confidentiality 51611  
is maintained with respect to any part of the information that 51612  
contains names or other identifying information about patients or 51613  
complainants whose confidentiality was protected by the state 51614  
medical board when the information was in the board's possession. 51615  
Measures to ensure confidentiality that may be taken by the court 51616  
include sealing its records or deleting specific information from 51617  
its records. 51618

(6) On a quarterly basis, the board shall prepare a report 51619  
that documents the disposition of all cases during the preceding 51620  
three months. The report shall contain the following information 51621  
for each case with which the board has completed its activities: 51622

(a) The case number assigned to the complaint or alleged 51623  
violation; 51624

(b) The type of certificate to practice, if any, held by the 51625  
individual against whom the complaint is directed; 51626

(c) A description of the allegations contained in the 51627  
complaint; 51628

(d) The disposition of the case. 51629

The report shall state how many cases are still pending and 51630  
shall be prepared in a manner that protects the identity of each 51631  
person involved in each case. The report shall be a public record 51632  
under section 149.43 of the Revised Code. 51633

(G) If the secretary and supervising member determine both of 51634  
the following, they may recommend that the board suspend an 51635  
individual's certificate to practice without a prior hearing: 51636

(1) That there is clear and convincing evidence that an 51637  
individual has violated division (B) of this section; 51638

(2) That the individual's continued practice presents a 51639

danger of immediate and serious harm to the public. 51640

Written allegations shall be prepared for consideration by 51641  
the board. The board, upon review of those allegations and by an 51642  
affirmative vote of not fewer than six of its members, excluding 51643  
the secretary and supervising member, may suspend a certificate 51644  
without a prior hearing. A telephone conference call may be 51645  
utilized for reviewing the allegations and taking the vote on the 51646  
summary suspension. 51647

The board shall issue a written order of suspension by 51648  
certified mail or in person in accordance with section 119.07 of 51649  
the Revised Code. The order shall not be subject to suspension by 51650  
the court during pendency of any appeal filed under section 119.12 51651  
of the Revised Code. If the individual subject to the summary 51652  
suspension requests an adjudicatory hearing by the board, the date 51653  
set for the hearing shall be within fifteen days, but not earlier 51654  
than seven days, after the individual requests the hearing, unless 51655  
otherwise agreed to by both the board and the individual. 51656

Any summary suspension imposed under this division shall 51657  
remain in effect, unless reversed on appeal, until a final 51658  
adjudicative order issued by the board pursuant to this section 51659  
and Chapter 119. of the Revised Code becomes effective. The board 51660  
shall issue its final adjudicative order within seventy-five days 51661  
after completion of its hearing. A failure to issue the order 51662  
within seventy-five days shall result in dissolution of the 51663  
summary suspension order but shall not invalidate any subsequent, 51664  
final adjudicative order. 51665

(H) If the board takes action under division (B)(9), (11), or 51666  
(13) of this section and the judicial finding of guilt, guilty 51667  
plea, or judicial finding of eligibility for intervention in lieu 51668  
of conviction is overturned on appeal, upon exhaustion of the 51669  
criminal appeal, a petition for reconsideration of the order may 51670  
be filed with the board along with appropriate court documents. 51671

Upon receipt of a petition of that nature and supporting court 51672  
documents, the board shall reinstate the individual's certificate 51673  
to practice. The board may then hold an adjudication under Chapter 51674  
119. of the Revised Code to determine whether the individual 51675  
committed the act in question. Notice of an opportunity for a 51676  
hearing shall be given in accordance with Chapter 119. of the 51677  
Revised Code. If the board finds, pursuant to an adjudication held 51678  
under this division, that the individual committed the act or if 51679  
no hearing is requested, the board may order any of the sanctions 51680  
identified under division (B) of this section. 51681

(I) The certificate to practice issued to an individual under 51682  
this chapter and the individual's practice in this state are 51683  
automatically suspended as of the date of the individual's second 51684  
or subsequent plea of guilty to, or judicial finding of guilt of, 51685  
a violation of section 2919.123 of the Revised Code, or the date 51686  
the individual pleads guilty to, is found by a judge or jury to be 51687  
guilty of, or is subject to a judicial finding of eligibility for 51688  
intervention in lieu of conviction in this state or treatment or 51689  
intervention in lieu of conviction in another jurisdiction for any 51690  
of the following criminal offenses in this state or a 51691  
substantially equivalent criminal offense in another jurisdiction: 51692  
aggravated murder, murder, voluntary manslaughter, felonious 51693  
assault, kidnapping, rape, sexual battery, gross sexual 51694  
imposition, aggravated arson, aggravated robbery, or aggravated 51695  
burglary. Continued practice after suspension shall be considered 51696  
practicing without a certificate. 51697

The board shall notify the individual subject to the 51698  
suspension by certified mail or in person in accordance with 51699  
section 119.07 of the Revised Code. If an individual whose 51700  
certificate is automatically suspended under this division fails 51701  
to make a timely request for an adjudication under Chapter 119. of 51702  
the Revised Code, the board shall do whichever of the following is 51703

applicable: 51704

(1) If the automatic suspension under this division is for a 51705  
second or subsequent plea of guilty to, or judicial finding of 51706  
guilt of, a violation of section 2919.123 of the Revised Code, the 51707  
board shall enter an order suspending the individual's certificate 51708  
to practice for a period of at least one year or, if determined 51709  
appropriate by the board, imposing a more serious sanction 51710  
involving the individual's certificate to practice. 51711

(2) In all circumstances in which division (I)(1) of this 51712  
section does not apply, enter a final order permanently revoking 51713  
the individual's certificate to practice. 51714

(J) If the board is required by Chapter 119. of the Revised 51715  
Code to give notice of an opportunity for a hearing and if the 51716  
individual subject to the notice does not timely request a hearing 51717  
in accordance with section 119.07 of the Revised Code, the board 51718  
is not required to hold a hearing, but may adopt, by an 51719  
affirmative vote of not fewer than six of its members, a final 51720  
order that contains the board's findings. In that final order, the 51721  
board may order any of the sanctions identified under division (A) 51722  
or (B) of this section. 51723

(K) Any action taken by the board under division (B) of this 51724  
section resulting in a suspension from practice shall be 51725  
accompanied by a written statement of the conditions under which 51726  
the individual's certificate to practice may be reinstated. The 51727  
board shall adopt rules governing conditions to be imposed for 51728  
reinstatement. Reinstatement of a certificate suspended pursuant 51729  
to division (B) of this section requires an affirmative vote of 51730  
not fewer than six members of the board. 51731

(L) When the board refuses to grant a certificate to an 51732  
applicant, revokes an individual's certificate to practice, 51733  
refuses to register an applicant, or refuses to reinstate an 51734

individual's certificate to practice, the board may specify that 51735  
its action is permanent. An individual subject to a permanent 51736  
action taken by the board is forever thereafter ineligible to hold 51737  
a certificate to practice and the board shall not accept an 51738  
application for reinstatement of the certificate or for issuance 51739  
of a new certificate. 51740

(M) Notwithstanding any other provision of the Revised Code, 51741  
all of the following apply: 51742

(1) The surrender of a certificate issued under this chapter 51743  
shall not be effective unless or until accepted by the board. A 51744  
telephone conference call may be utilized for acceptance of the 51745  
surrender of an individual's certificate to practice. The 51746  
telephone conference call shall be considered a special meeting 51747  
under division (F) of section 121.22 of the Revised Code. 51748  
Reinstatement of a certificate surrendered to the board requires 51749  
an affirmative vote of not fewer than six members of the board. 51750

(2) An application for a certificate made under the 51751  
provisions of this chapter may not be withdrawn without approval 51752  
of the board. 51753

(3) Failure by an individual to renew a certificate of 51754  
registration in accordance with this chapter shall not remove or 51755  
limit the board's jurisdiction to take any disciplinary action 51756  
under this section against the individual. 51757

(N) Sanctions shall not be imposed under division (B)(28) of 51758  
this section against any person who waives deductibles and 51759  
copayments as follows: 51760

(1) In compliance with the health benefit plan that expressly 51761  
allows such a practice. Waiver of the deductibles or copayments 51762  
shall be made only with the full knowledge and consent of the plan 51763  
purchaser, payer, and third-party administrator. Documentation of 51764  
the consent shall be made available to the board upon request. 51765

(2) For professional services rendered to any other person 51766  
authorized to practice pursuant to this chapter, to the extent 51767  
allowed by this chapter and rules adopted by the board. 51768

(0) Under the board's investigative duties described in this 51769  
section and subject to division (F) of this section, the board 51770  
shall develop and implement a quality intervention program 51771  
designed to improve through remedial education the clinical and 51772  
communication skills of individuals authorized under this chapter 51773  
to practice medicine and surgery, osteopathic medicine and 51774  
surgery, and podiatric medicine and surgery. In developing and 51775  
implementing the quality intervention program, the board may do 51776  
all of the following: 51777

(1) Offer in appropriate cases as determined by the board an 51778  
educational and assessment program pursuant to an investigation 51779  
the board conducts under this section; 51780

(2) Select providers of educational and assessment services, 51781  
including a quality intervention program panel of case reviewers; 51782

(3) Make referrals to educational and assessment service 51783  
providers and approve individual educational programs recommended 51784  
by those providers. The board shall monitor the progress of each 51785  
individual undertaking a recommended individual educational 51786  
program. 51787

(4) Determine what constitutes successful completion of an 51788  
individual educational program and require further monitoring of 51789  
the individual who completed the program or other action that the 51790  
board determines to be appropriate; 51791

(5) Adopt rules in accordance with Chapter 119. of the 51792  
Revised Code to further implement the quality intervention 51793  
program. 51794

An individual who participates in an individual educational 51795  
program pursuant to this division shall pay the financial 51796

obligations arising from that educational program. 51797

Sec. 4731.297. (A) As used in this section: 51798

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics partnering to do all of the following: 51799  
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(a) Provide the highest quality of patient care from expert physicians; 51802  
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(b) Conduct groundbreaking research leading to medical advancements for current and future patients; 51804  
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(c) Provide medical education and graduate medical education to educate and train physicians. 51806  
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(2) "Affiliated physician group practice" means a medical practice that consists of one or more physicians authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and that is affiliated with an academic medical center to further the objectives described in divisions (A)(1)(a) to (c) of this section. 51808  
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(B) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a certificate of conceded eminence authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's employment with an academic medical center in this state or affiliated physician group practice in this state. 51814  
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(C) To be eligible for a certificate of conceded eminence, an applicant shall provide to the board all of the following: 51820  
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(1) Evidence satisfactory to the board of all of the following: 51822  
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(a) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed 51824  
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|---|----------------------------------|
| <u>in the international medical education directory;</u>  | 51826                            |
| <u>(b) That the applicant has been appointed to serve in this state as a full-time faculty member of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association;</u> | 51827<br>51828<br>51829<br>51830 |
| <u>(c) That the applicant has accepted an offer of employment with an academic medical center in this state or affiliated physician group practice in this state;</u>   | 51831<br>51832<br>51833          |
| <u>(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;</u>  | 51834<br>51835<br>51836          |
| <u>(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:</u>  | 51837<br>51838<br>51839          |
| <u>(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.</u>  | 51840<br>51841<br>51842<br>51843 |
| <u>(ii) The applicant has written multiple articles in journals listed in the index medicus or an equivalent scholarly publication acceptable to the board.</u>   | 51844<br>51845<br>51846          |
| <u>(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.</u>  | 51847<br>51848<br>51849<br>51850 |
| <u>(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence.</u>  | 51851<br>51852                   |
| <u>(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.</u>  | 51853<br>51854<br>51855          |

(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. 51856  
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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. 51859  
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(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award. 51862  
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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; 51864  
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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; 51870  
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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. 51873  
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(2) An affidavit from the applicant agreeing to practice only within the clinical setting of the academic medical center; 51876  
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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; 51878  
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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 51882  
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submitted under division (C)(3) of this section are from 51886  
distinguished experts in the applicant's specialty, and 51887  
documentation to support the affidavit; 51888

(5) A fee of one thousand dollars for the certificate. 51889

(D)(1) The holder of a certificate of conceded eminence may 51890  
practice medicine and surgery or osteopathic medicine and surgery 51891  
only within the clinical setting of the academic medical center 51892  
with which the certificate holder is employed. 51893

(2) A certificate holder may supervise medical students, 51894  
physicians participating in graduate medical education, advanced 51895  
practice nurses, and physician assistants when performing clinical 51896  
services in the certificate holder's area of specialty. 51897

(E) The board may revoke a certificate issued under this 51898  
section on receiving proof satisfactory to the board that the 51899  
certificate holder has engaged in practice in this state outside 51900  
the scope of the certificate or that there are grounds for action 51901  
against the certificate holder under section 4731.22 of the 51902  
Revised Code. 51903

(F) A certificate of conceded eminence is valid for the 51904  
shorter of two years or the duration of the certificate holder's 51905  
employment with the academic medical center or affiliated 51906  
physician group practice. The certificate ceases to be valid if 51907  
the holder resigns or is otherwise terminated from the academic 51908  
medical center or affiliated physician group practice. 51909

(G) A certificate of conceded eminence may be renewed for an 51910  
additional two-year period. There is no limit on the number of 51911  
times a certificate may be renewed. A person seeking renewal of a 51912  
certificate shall apply to the board and is eligible for renewal 51913  
if the applicant does all of the following: 51914

(1) Pays the renewal fee of one thousand dollars; 51915

(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: 51916  
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(a) That the applicant's initial appointment to the medical faculty is still valid or has been renewed; 51919  
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(b) That the applicant's clinical practice is consistent with the established standards in the field; 51921  
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(c) That the applicant has demonstrated continued scholarly achievement; 51923  
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(d) That the applicant has demonstrated continued professional achievement consistent with the academic medical center's requirements, established pursuant to standards adopted under section 3701.351 of the Revised Code, for physicians with staff membership or professional privileges with the academic medical center. 51925  
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(3) Satisfies the same continuing medical education requirements set forth in section 4731.281 of the Revised Code that apply to a person who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter. 51931  
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(4) Complies with any other requirements established by the board. 51936  
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(H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 51938  
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**Sec. 4735.01.** As used in this chapter: 51941

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for 51942  
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| a fee, commission, or other valuable consideration, or with the    | 51946 |
| intention, or in the expectation, or upon the promise of receiving | 51947 |
| or collecting a fee, commission, or other valuable consideration   | 51948 |
| does any of the following:   | 51949 |
| (1) Sells, exchanges, purchases, rents, or leases, or              | 51950 |
| negotiates the sale, exchange, purchase, rental, or leasing of any | 51951 |
| real estate;   | 51952 |
| (2) Offers, attempts, or agrees to negotiate the sale,             | 51953 |
| exchange, purchase, rental, or leasing of any real estate;         | 51954 |
| (3) Lists, or offers, attempts, or agrees to list, or              | 51955 |
| auctions, or offers, attempts, or agrees to auction, any real      | 51956 |
| estate;  | 51957 |
| (4) Buys or offers to buy, sells or offers to sell, or             | 51958 |
| otherwise deals in options on real estate;                         | 51959 |
| (5) Operates, manages, or rents, or offers or attempts to          | 51960 |
| operate, manage, or rent, other than as custodian, caretaker, or   | 51961 |
| janitor, any building or portions of buildings to the public as    | 51962 |
| tenants;   | 51963 |
| (6) Advertises or holds self out as engaged in the business        | 51964 |
| of selling, exchanging, purchasing, renting, or leasing real       | 51965 |
| estate;  | 51966 |
| (7) Directs or assists in the procuring of prospects or the        | 51967 |
| negotiation of any transaction, other than mortgage financing,     | 51968 |
| which does or is calculated to result in the sale, exchange,       | 51969 |
| leasing, or renting of any real estate;                            | 51970 |
| (8) Is engaged in the business of charging an advance fee or       | 51971 |
| contracting for collection of a fee in connection with any         | 51972 |
| contract whereby the broker undertakes primarily to promote the    | 51973 |
| sale, exchange, purchase, rental, or leasing of real estate        | 51974 |
| through its listing in a publication issued primarily for such     | 51975 |

purpose, or for referral of information concerning such real 51976  
estate to brokers, or both, except that this division does not 51977  
apply to a publisher of listings or compilations of sales of real 51978  
estate by their owners; 51979

(9) Collects rental information for purposes of referring 51980  
prospective tenants to rental units or locations of such units and 51981  
charges the prospective tenants a fee. 51982

(B) "Real estate" includes leaseholds as well as any and 51983  
every interest or estate in land situated in this state, whether 51984  
corporeal or incorporeal, whether freehold or nonfreehold, and the 51985  
improvements on the land, but does not include cemetery interment 51986  
rights. 51987

(C) "Real estate salesperson" means any person associated 51988  
with a licensed real estate broker to do or to deal in any acts or 51989  
transactions set out or comprehended by the definition of a real 51990  
estate broker, for compensation or otherwise. 51991

(D) "Institution of higher education" means either of the 51992  
following: 51993

(1) A nonprofit institution as defined in section 1713.01 of 51994  
the Revised Code that actually awards, rather than intends to 51995  
award, degrees for fulfilling requirements of academic work beyond 51996  
high school; 51997

(2) An institution operated for profit that otherwise 51998  
qualifies under the definition of an institution in section 51999  
1713.01 of the Revised Code and that actually awards, rather than 52000  
intends to award, degrees for fulfilling requirements of academic 52001  
work beyond high school. 52002

(E) "Foreign real estate" means real estate not situated in 52003  
this state and any interest in real estate not situated in this 52004  
state. 52005

(F) "Foreign real estate dealer" includes any person, 52006  
partnership, association, limited liability company, limited 52007  
liability partnership, or corporation, foreign or domestic, who 52008  
for another, whether pursuant to a power of attorney or otherwise, 52009  
and who for a fee, commission, or other valuable consideration, or 52010  
with the intention, or in the expectation, or upon the promise of 52011  
receiving or collecting a fee, commission, or other valuable 52012  
consideration, does or deals in any act or transaction specified 52013  
or comprehended in division (A) of this section with respect to 52014  
foreign real estate. 52015

(G) "Foreign real estate salesperson" means any person 52016  
associated with a licensed foreign real estate dealer to do or 52017  
deal in any act or transaction specified or comprehended in 52018  
division (A) of this section with respect to foreign real estate, 52019  
for compensation or otherwise. 52020

(H) Any person, partnership, association, limited liability 52021  
company, limited liability partnership, or corporation, who, for 52022  
another, in consideration of compensation, by fee, commission, 52023  
salary, or otherwise, or with the intention, in the expectation, 52024  
or upon the promise of receiving or collecting a fee, does, or 52025  
offers, attempts, or agrees to engage in, any single act or 52026  
transaction contained in the definition of a real estate broker, 52027  
whether an act is an incidental part of a transaction, or the 52028  
entire transaction, shall be constituted a real estate broker or 52029  
real estate salesperson under this chapter. 52030

(I)(1) The terms "real estate broker," "real estate 52031  
salesperson," "foreign real estate dealer," and "foreign real 52032  
estate salesperson" do not include a person, partnership, 52033  
association, limited liability company, limited liability 52034  
partnership, or corporation, or the regular employees thereof, who 52035  
perform any of the acts or transactions specified or comprehended 52036  
in division (A) of this section, whether or not for, or with the 52037

intention, in expectation, or upon the promise of receiving or 52038  
collecting a fee, commission, or other valuable consideration: 52039

(a) With reference to real estate situated in this state 52040  
owned by such person, partnership, association, limited liability 52041  
company, limited liability partnership, or corporation, or 52042  
acquired on its own account in the regular course of, or as an 52043  
incident to the management of the property and the investment in 52044  
it; 52045

(b) As receiver or trustee in bankruptcy, as guardian, 52046  
executor, administrator, trustee, assignee, commissioner, or any 52047  
person doing the things mentioned in this section, under authority 52048  
or appointment of, or incident to a proceeding in, any court, or 52049  
as a bona fide public officer, or as executor, trustee, or other 52050  
bona fide fiduciary under any trust agreement, deed of trust, 52051  
will, or other instrument that has been executed in good faith 52052  
creating a like bona fide fiduciary obligation; 52053

(c) As a public officer while performing the officer's 52054  
official duties; 52055

(d) As an attorney at law in the performance of the 52056  
attorney's duties; 52057

(e) As a person who engages in the brokering of the sale of 52058  
business assets, not including the sale, lease, exchange, or 52059  
assignment of any interest in real estate; 52060

(f) As a person who engages in the sale of manufactured homes 52061  
as defined in division (C)(4) of section 3781.06 of the Revised 52062  
Code, or of mobile homes as defined in division (O) of section 52063  
4501.01 of the Revised Code, provided the sale does not include 52064  
the negotiation, sale, lease, exchange, or assignment of any 52065  
interest in real estate; 52066

(g) As a person who engages in the sale of commercial real 52067  
estate pursuant to the requirements of section 4735.022 of the 52068

Revised Code. 52069

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I)(1)(a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section. 52070  
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(J) "Disabled licensee" means a person licensed pursuant to this chapter who is under a severe disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration. 52076  
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(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing." 52080  
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(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be. 52083  
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(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker. 52090  
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(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter. 52094  
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(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a 52098  
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license under this chapter for a specified interval of time. 52100

(P) "Reactivate" means the process prescribed by the 52101  
superintendent of real estate and professional licensing to remove 52102  
a license from an inactive, ~~voluntary hold~~, suspended, or broker's 52103  
license on deposit status to allow a licensee to provide services 52104  
that require a license under this chapter. 52105

(Q) "Revoked" means the license status in which the license 52106  
is void and not eligible for reactivation. 52107

(R) "Commercial real estate" means any parcel of real estate 52108  
in this state other than real estate containing one to four 52109  
residential units. "Commercial real estate" does not include 52110  
single-family residential units such as condominiums, townhouses, 52111  
manufactured homes, or homes in a subdivision when sold, leased, 52112  
or otherwise conveyed on a unit-by-unit basis, even when those 52113  
units are a part of a larger building or parcel of real estate 52114  
containing more than four residential units. 52115

(S) "Out-of-state commercial broker" includes any person, 52116  
partnership, association, limited liability company, limited 52117  
liability partnership, or corporation that is licensed to do 52118  
business as a real estate broker in a jurisdiction other than 52119  
Ohio. 52120

(T) "Out-of-state commercial salesperson" includes any person 52121  
affiliated with an out-of-state commercial broker who is not 52122  
licensed as a real estate salesperson in Ohio. 52123

(U) "Exclusive right to sell or lease listing agreement" 52124  
means an agency agreement between a seller and broker that meets 52125  
the requirements of section 4735.55 of the Revised Code and does 52126  
both of the following: 52127

(1) Grants the broker the exclusive right to represent the 52128  
seller in the sale or lease of the seller's property; 52129

(2) Provides the broker will be compensated if the broker, 52130  
the seller, or any other person or entity produces a purchaser or 52131  
tenant in accordance with the terms specified in the listing 52132  
agreement or if the property is sold or leased during the term of 52133  
the listing agreement to anyone other than to specifically 52134  
exempted persons or entities. 52135

(V) "Exclusive agency agreement" means an agency agreement 52136  
between a seller and broker that meets the requirements of section 52137  
4735.55 of the Revised Code and does both of the following: 52138

(1) Grants the broker the exclusive right to represent the 52139  
seller in the sale or lease of the seller's property; 52140

(2) Provides the broker will be compensated if the broker or 52141  
any other person or entity produces a purchaser or tenant in 52142  
accordance with the terms specified in the listing agreement or if 52143  
the property is sold or leased during the term of the listing 52144  
agreement, unless the property is sold or leased solely through 52145  
the efforts of the seller or to the specifically exempted persons 52146  
or entities. 52147

(W) "Exclusive purchaser agency agreement" means an agency 52148  
agreement between a purchaser and broker that meets the 52149  
requirements of section 4735.55 of the Revised Code and does both 52150  
of the following: 52151

(1) Grants the broker the exclusive right to represent the 52152  
purchaser in the purchase or lease of property; 52153

(2) Provides the broker will be compensated in accordance 52154  
with the terms specified in the exclusive agency agreement or if a 52155  
property is purchased or leased by the purchaser during the term 52156  
of the agency agreement unless the property is specifically 52157  
exempted in the agency agreement. 52158

The agreement may authorize the broker to receive 52159  
compensation from the seller or the seller's agent and may provide 52160

that the purchaser is not obligated to compensate the broker if 52161  
the property is purchased or leased solely through the efforts of 52162  
the purchaser. 52163

(X) "Seller" means a party in a real estate transaction who 52164  
is the potential transferor of property. "Seller" includes an 52165  
owner of property who is seeking to sell the property and a 52166  
landlord who is seeking to rent or lease property to another 52167  
person. 52168

~~(Y) "Voluntary hold" means the license status in which a 52169  
license is in the possession of the division of real estate and 52170  
professional licensing for a period of not more than twelve months 52171  
pursuant to section 4735.142 of the Revised Code, is not renewed 52172  
in accordance with the requirements specified in this chapter or 52173  
the rules adopted pursuant to it, and is not associated with a 52174  
real estate broker. 52175~~

~~(Z)~~ "Resigned" means the license status in which a license 52176  
has been voluntarily and permanently surrendered to or is 52177  
otherwise in the possession of the division of real estate and 52178  
professional licensing, ~~is~~ may not be renewed or reactivated in 52179  
accordance with the requirements specified in this chapter or the 52180  
rules adopted pursuant to it, and is not associated with a real 52181  
estate broker. 52182

~~(AA)~~(Z) "Bona fide" means made in good faith or without 52183  
purpose of circumventing license law. 52184

**Sec. 4735.02.** (A) Except as provided in section 4735.022 of 52185  
the Revised Code, no person, partnership, association, limited 52186  
liability company, limited liability partnership, or corporation 52187  
shall act as a real estate broker or real estate salesperson, or 52188  
advertise or assume to act as such, without first being licensed 52189  
as provided in this chapter. No person, partnership, association, 52190  
limited liability company, limited liability partnership, or 52191

corporation shall provide services that require a license under 52192  
this chapter if the licensee's license is inactive, suspended, 52193  
~~placed on voluntary hold~~, resigned, or a broker's license on 52194  
deposit, or if the license has been revoked. Nothing contained in 52195  
this chapter shall be construed as authorizing a real estate 52196  
broker or salesperson to perform any service constituting the 52197  
practice of law. 52198

(B) No partnership, association, limited liability company, 52199  
limited liability partnership, or corporation holding a real 52200  
estate license shall employ as an officer, director, manager, or 52201  
principal employee any person previously holding a license as a 52202  
real estate broker, real estate salesperson, foreign real estate 52203  
dealer, or foreign real estate salesperson, whose license has been 52204  
placed in inactive, ~~voluntary hold~~, or resigned status, or is 52205  
suspended, or revoked and who has not thereafter reactivated the 52206  
license or received a new license. 52207

**Sec. 4735.052.** (A) Upon receipt of a written complaint or 52208  
upon the superintendent's own motion, the superintendent may 52209  
investigate any person that has allegedly violated section 4735.02 52210  
or 4735.25 of the Revised Code, except that the superintendent 52211  
shall not initiate an investigation, pursuant to this section, of 52212  
any person who held a ~~license on voluntary hold or a~~ suspended or 52213  
inactive license under this chapter on the date of the alleged 52214  
violation. 52215

(B) If, after investigation, the superintendent determines 52216  
there exists reasonable evidence of a violation of section 4735.02 52217  
or 4735.25 of the Revised Code, within fourteen business days 52218  
after that determination, the superintendent shall send the party 52219  
who is the subject of the investigation, a written notice, by 52220  
regular mail, that includes all of the following information: 52221

(1) A description of the activity in which the party 52222

allegedly is engaging or has engaged that is a violation of 52223  
section 4735.02 or 4735.25 of the Revised Code; 52224

(2) The applicable law allegedly violated; 52225

(3) A statement informing the party that a hearing concerning 52226  
the alleged violation will be held, upon the party's request, 52227  
before a hearing examiner pursuant to Chapter 119. of the Revised 52228  
Code. 52229

(C)(1) If a hearing is requested, the hearing examiner shall 52230  
hear the testimony of all parties present at the hearing and 52231  
consider any written testimony submitted pursuant to this section, 52232  
and determine if there has been a violation of section 4735.02 or 52233  
4735.25 of the Revised Code. 52234

(2) After the conclusion of formal hearings, the hearing 52235  
examiner shall file a report of findings of fact and conclusions 52236  
of law with the superintendent, the commission, the complainant, 52237  
and the parties. Within twenty days of receipt of such copy of the 52238  
written report of findings of fact and conclusions of law, the 52239  
parties and the division may file with the commission written 52240  
objections to the report, which shall be considered by the 52241  
commission before approving, modifying, or disapproving the 52242  
report. 52243

(3) The commission shall review the hearing examiner's report 52244  
at the next regularly scheduled commission meeting held at least 52245  
twenty business days after receipt of the hearing examiner's 52246  
report. The commission shall hear the testimony of the complainant 52247  
or the parties upon request. 52248

(4) The commission shall decide whether to impose 52249  
disciplinary sanctions upon a party for a violation of section 52250  
4735.02 of the Revised Code. If the commission finds that a 52251  
violation has occurred, the commission may assess a civil penalty, 52252  
in an amount it determines, not to exceed one thousand dollars per 52253

violation. Each day a violation occurs or continues is a separate 52254  
violation. The commission shall determine the terms of payment. 52255  
The commission shall maintain a record of the proceedings of the 52256  
hearing and issue a written opinion to all parties, citing its 52257  
findings and grounds for any action taken. 52258

(D) Civil penalties collected under this section shall be 52259  
deposited in the real estate operating fund, which is created in 52260  
the state treasury under section 4735.211 of the Revised Code. 52261

(E) If a party fails to pay a civil penalty assessed pursuant 52262  
to this section within the time prescribed by the commission, the 52263  
superintendent shall forward to the attorney general the name of 52264  
the party and the amount of the civil penalty, for the purpose of 52265  
collecting that civil penalty. In addition to the civil penalty 52266  
assessed pursuant to this section, the party also shall pay any 52267  
fee assessed by the attorney general for collection of the civil 52268  
penalty. 52269

(F) The superintendent may reserve the right to bring a civil 52270  
action against a party that fails to pay a civil penalty for 52271  
breach of contract in a court of competent jurisdiction. 52272

**Sec. 4735.10.** (A)(1) The Ohio real estate commission may 52273  
adopt reasonable rules in accordance with Chapter 119. of the 52274  
Revised Code, necessary for implementing the provisions of this 52275  
chapter relating, but not limited to, the following: 52276

(a) The form and manner of filing applications for licensure; 52277

(b) Times and form of examination for license; 52278

(c) Placing an existing broker's license on deposit or a 52279  
salesperson's license on an inactive status for an indefinite 52280  
period; 52281

(d) Specifying the process by which a licensee may ~~place~~ 52282  
resign the licensee's license ~~on voluntary hold or resigned~~ 52283

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| status;  | 52284  |
| (e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;  | 52285<br>52286<br>52287<br>52288<br>52289          |
| (f) Clarification of the activities that require a license under this chapter.   | 52290<br>52291                                     |
| (2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:  | 52292<br>52293<br>52294                            |
| (a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;  | 52295<br>52296<br>52297<br>52298                   |
| (b) A three-year license and a three-year license renewal system;  | 52299<br>52300                                     |
| (c) Standards for the approval of the ten-hour postlicensure courses as required by division <del>(H)</del> (G) of section 4735.07 and division (H) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as continuing education for licenses. | 52301<br>52302<br>52303<br>52304<br>52305<br>52306 |
| (d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.  | 52307<br>52308<br>52309<br>52310<br>52311          |
| (e) Requirements for trust accounts and property management accounts. The rules shall specify that:  | 52312<br>52313                                     |

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses in an inactive status and to become salespersons under

section 4735.13 of the Revised Code; 52344

(5) Appointment of hearing examiners under section 119.09 of 52345  
the Revised Code; 52346

(6) Acceptance and rejection of applications to take the 52347  
foreign real estate dealer and salesperson examinations and 52348  
licensure, with waiver of examination, under sections 4735.27 and 52349  
4735.28 of the Revised Code; 52350

(7) Qualification of foreign real estate under section 52351  
4735.25 of the Revised Code. 52352

If at any time there is no rule in effect establishing a 52353  
guideline or standard required by this division, the 52354  
superintendent may adopt a rule in accordance with Chapter 119. of 52355  
the Revised Code for such purpose. 52356

(C) The commission or superintendent may hear testimony in 52357  
matters relating to the duties imposed upon them, and the 52358  
president of the commission and superintendent may administer 52359  
oaths. The commission or superintendent may require other proof of 52360  
the honesty, truthfulness, and good reputation of any person named 52361  
in an application for a real estate broker's or real estate 52362  
salesperson's license before admitting the applicant to the 52363  
examination or issuing a license. 52364

**Sec. 4735.13.** (A) Every real estate broker licensed under 52365  
this chapter shall have and maintain a definite place of business 52366  
in this state. A post office box address is not a definite place 52367  
of business for purposes of this section. The license of a real 52368  
estate broker shall be prominently displayed in the office or 52369  
place of business of the broker, and no license shall authorize 52370  
the licensee to do business except from the location specified in 52371  
it. If the broker maintains more than one place of business within 52372  
the state, the broker shall apply for and procure a duplicate 52373

license for each branch office maintained by the broker. Each 52374  
branch office shall be in the charge of a licensed broker or 52375  
salesperson. The branch office license shall be prominently 52376  
displayed at the branch office location. 52377

(B) The license of each real estate salesperson shall be 52378  
mailed to and remain in the possession of the licensed broker with 52379  
whom the salesperson is or is to be associated until the licensee 52380  
places the license on inactive, ~~voluntary hold~~, or resigned status 52381  
or until the salesperson leaves the brokerage or is terminated. 52382  
The broker shall keep each salesperson's license in a way that it 52383  
can, and shall on request, be made immediately available for 52384  
public inspection at the office or place of business of the 52385  
broker. Except as provided in divisions (G) and (H) of this 52386  
section, immediately upon the salesperson's leaving the 52387  
association or termination of the association of a real estate 52388  
salesperson with the broker, the broker shall return the 52389  
salesperson's license to the superintendent of real estate. 52390

The failure of a broker to return the license of a real 52391  
estate salesperson or broker who leaves or who is terminated, via 52392  
certified mail return receipt requested, within three business 52393  
days of the receipt of a written request from the superintendent 52394  
for the return of the license, is prima-facie evidence of 52395  
misconduct under division (A)(6) of section 4735.18 of the Revised 52396  
Code. 52397

(C) ~~Any~~ A licensee shall notify the superintendent in writing 52398  
within fifteen days of any of the following occurrences: 52399

(1) The licensee is convicted of a felony. 52400

(2) The licensee is convicted of a crime involving moral 52401  
turpitude. 52402

(3) The licensee is found to have violated any federal, 52403  
state, or municipal civil rights law pertaining to discrimination 52404

in housing. 52405

(4) The licensee is found to have engaged in a discriminatory 52406  
practice pertaining to housing accommodations described in 52407  
division (H) of section 4112.02 of the Revised Code. 52408

~~(5) The licensee is found to have violated any municipal 52409  
civil rights law pertaining to housing discrimination. 52410~~

~~(6)~~ The licensee is the subject of an order by the department 52411  
of commerce, the department of insurance, or the department of 52412  
agriculture revoking or permanently surrendering any professional 52413  
license, certificate, or registration. 52414

~~(7)~~(6) The licensee is the subject of an order by any 52415  
government agency concerning real estate, financial matters, or 52416  
the performance of fiduciary duties with respect to any license, 52417  
certificate, or registration. 52418

If a licensee fails to notify the superintendent within the 52419  
required time, the superintendent immediately may suspend the 52420  
license of the licensee. 52421

Any court that convicts a licensee of a violation of any 52422  
municipal civil rights law pertaining to housing discrimination 52423  
also shall notify the Ohio civil rights commission within fifteen 52424  
days of the conviction. 52425

(D) In case of any change of business location, a broker 52426  
shall give notice to the superintendent, on a form prescribed by 52427  
the superintendent, within thirty days after the change of 52428  
location, whereupon the superintendent shall issue new licenses 52429  
for the unexpired period without charge. If a broker changes a 52430  
business location without giving the required notice and without 52431  
receiving new licenses that action is prima-facie evidence of 52432  
misconduct under division (A)(6) of section 4735.18 of the Revised 52433  
Code. 52434

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. One dollar

of the fee shall be credited to the real estate education and 52468  
research fund. 52469

A licensed real estate broker who is a member or officer of a 52470  
partnership, association, limited liability company, limited 52471  
liability partnership, or corporation shall only act as a real 52472  
estate broker for such partnership, association, limited liability 52473  
company, limited liability partnership, or corporation. 52474

(G) If a real estate broker or salesperson enters the armed 52475  
forces, the broker or salesperson may place the broker's or 52476  
salesperson's license on deposit with the Ohio real estate 52477  
commission. The licensee shall not be required to renew the 52478  
license until the renewal date that follows the date of discharge 52479  
from the armed forces. Any license deposited with the commission 52480  
shall be subject to this chapter. Any licensee whose license is on 52481  
deposit under this division and who fails to meet the continuing 52482  
education requirements of section 4735.141 of the Revised Code 52483  
because the licensee is in the armed forces shall satisfy the 52484  
commission that the licensee has complied with the continuing 52485  
education requirements within twelve months of the licensee's 52486  
first birthday after discharge. The superintendent shall notify 52487  
the licensee of the licensee's obligations under section 4735.141 52488  
of the Revised Code at the time the licensee applies for 52489  
reactivation of the licensee's license. 52490

(H) If a licensed real estate salesperson submits an 52491  
application to the superintendent to leave the association of one 52492  
broker to associate with a different broker, the broker possessing 52493  
the licensee's license need not return the salesperson's license 52494  
to the superintendent. The superintendent may process the 52495  
application regardless of whether the licensee's license is 52496  
returned to the superintendent. 52497

**Sec. 4735.14.** (A) Each license issued under this chapter, 52498

shall be valid without further recommendation or examination until 52499  
it is placed in an inactive, ~~voluntary hold~~, or resigned status, 52500  
is revoked or suspended, or such license expires by operation of 52501  
law. 52502

(B) Except for a licensee who has placed the licensee's 52503  
license ~~on voluntary hold or in~~ resigned status pursuant to 52504  
section 4735.142 of the Revised Code, each licensed broker, 52505  
brokerage, or salesperson shall file, on or before the date the 52506  
Ohio real estate commission has adopted by rule for that licensee 52507  
in accordance with division (A)(2)(f) of section 4735.10 of the 52508  
Revised Code, a notice of renewal on a form prescribed by the 52509  
superintendent of real estate. The notice of renewal shall be 52510  
mailed by the superintendent two months prior to the filing 52511  
deadline to the personal residence address of each broker or 52512  
salesperson that is on file with the division. If the licensee is 52513  
a partnership, association, limited liability company, limited 52514  
liability partnership, or corporation, the notice of renewal shall 52515  
be mailed by the superintendent two months prior to the filing 52516  
deadline to the brokerage's business address on file with the 52517  
division. A licensee shall not renew the licensee's license any 52518  
earlier than two months prior to the filing deadline. 52519

(C) Except as otherwise provided in division (B) of this 52520  
section, the license of any real estate broker, brokerage, or 52521  
salesperson that fails to file a notice of renewal on or before 52522  
the filing deadline of each ensuing year shall be suspended 52523  
automatically without the taking of any action by the 52524  
superintendent. A suspended license may be reactivated within 52525  
twelve months of the date of suspension, provided that the renewal 52526  
fee plus a penalty fee of fifty per cent of the renewal fee is 52527  
paid to the superintendent. Failure to reactivate the license as 52528  
provided in this division shall result in automatic revocation of 52529  
the license without the taking of any action by the 52530

superintendent. No person, partnership, association, corporation, 52531  
limited liability company, or limited partnership shall engage in 52532  
any act or acts for which a real estate license is required while 52533  
that entity's license is placed in an inactive, ~~voluntary hold~~, or 52534  
resigned status, or is suspended, or revoked. The commission shall 52535  
adopt rules in accordance with Chapter 119. of the Revised Code to 52536  
provide to licensees notice of suspension or revocation or both. 52537

(D) Each licensee shall notify the ~~commission~~ superintendent 52538  
of a change in personal residence address. A licensee's failure to 52539  
notify the ~~commission~~ superintendent of a change in personal 52540  
residence address does not negate the requirement to file the 52541  
license renewal by the required deadline established by the 52542  
commission by rule under division (A)(2)(f) of section 4735.10 of 52543  
the Revised Code. 52544

(E) The superintendent shall not renew a license if the 52545  
licensee fails to comply with section 4735.141 of the Revised Code 52546  
or is otherwise not in compliance with this chapter. 52547

(F) The superintendent shall make notice of successful 52548  
renewal available electronically to licensees as soon as 52549  
practicable, but not later than thirty days after receipt by the 52550  
division of a complete application and renewal fee. This notice 52551  
shall serve as a notice of renewal for purposes of section 4745.02 52552  
of the Revised Code. 52553

**Sec. 4735.141.** (A) Except as otherwise provided in this 52554  
division and except for a licensee who has placed the licensee's 52555  
license ~~on voluntary hold or in~~ resigned status pursuant to 52556  
section 4735.142 of the Revised Code, each person licensed under 52557  
section 4735.07 or 4735.09 of the Revised Code shall submit proof 52558  
satisfactory to the superintendent of real estate that the 52559  
licensee has satisfactorily completed thirty hours of continuing 52560  
education, as prescribed by the Ohio real estate commission 52561

pursuant to section 4735.10 of the Revised Code, on or before the 52562  
licensee's birthday occurring three years after the licensee's 52563  
date of initial licensure, and on or before the licensee's 52564  
birthday every three years thereafter. 52565

Persons licensed as real estate salespersons who subsequently 52566  
become licensed real estate brokers shall continue to submit proof 52567  
of continuing education in accordance with the time period 52568  
established in this section. 52569

The requirements of this section shall not apply to any 52570  
disabled licensee as provided in division (E) of this section. 52571

Each licensee who is seventy years of age or older, within a 52572  
continuing education reporting period, shall submit proof 52573  
satisfactory to the superintendent of real estate that the 52574  
licensee has satisfactorily completed a total of nine classroom 52575  
hours of continuing education, including instruction in Ohio real 52576  
estate law; recently enacted state and federal laws affecting the 52577  
real estate industry; municipal, state, and federal civil rights 52578  
law; and canons of ethics for the real estate industry as adopted 52579  
by the commission. The required proof of completion shall be 52580  
submitted on or before the licensee's birthday that falls in the 52581  
third year of that continuing education reporting period. A 52582  
licensee who is seventy years of age or older whose license is in 52583  
an inactive status is exempt from the continuing education 52584  
requirements specified in this section. The commission shall adopt 52585  
reasonable rules in accordance with Chapter 119. of the Revised 52586  
Code to carry out the purposes of this paragraph. 52587

(B) The continuing education requirements of this section 52588  
shall be completed in schools, seminars, and educational 52589  
institutions approved by the commission. Such approval shall be 52590  
given according to rules established by the commission under the 52591  
procedures of Chapter 119. of the Revised Code, and shall not be 52592  
limited to institutions providing two-year or four-year degrees. 52593

Each school, seminar, or educational institution approved under 52594  
this division shall be open to all licensees on an equal basis. 52595

(C) If the requirements of this section are not met by a 52596  
licensee within the period specified, the licensee's license shall 52597  
be suspended automatically without the taking of any action by the 52598  
superintendent. The superintendent shall notify the licensee of 52599  
the license suspension, and such notification shall be sent by 52600  
regular mail to the personal residence address of the licensee 52601  
that is on file with the division. Any license so suspended shall 52602  
remain suspended until it is reactivated by the superintendent. No 52603  
such license shall be reactivated until it is established, to the 52604  
satisfaction of the superintendent, that the requirements of this 52605  
section have been met. If the requirements of this section are not 52606  
met within twelve months from the date the license was suspended, 52607  
the license shall be revoked automatically without the taking of 52608  
any action by the superintendent. 52609

(D) If the license of a real estate broker is suspended 52610  
pursuant to division (C) of this section, the license of a real 52611  
estate salesperson associated with that broker correspondingly is 52612  
suspended pursuant to division (H) of section 4735.20 of the 52613  
Revised Code. A sole broker shall notify affiliated salespersons 52614  
of the suspension in writing within three days of receiving the 52615  
notice required by division (C) of this section. 52616

(1) The suspended license of the associated real estate 52617  
salesperson shall be reactivated and no fee shall be charged or 52618  
collected for that reactivation if that broker subsequently 52619  
submits proof to the superintendent that the broker has complied 52620  
with the requirements of this section and requests that the 52621  
broker's license as a real estate broker be reactivated, and the 52622  
superintendent then reactivates the broker's license as a real 52623  
estate broker. 52624

(2) If the real estate salesperson submits an application to 52625

leave the association of the suspended broker in order to 52626  
associate with a different broker, the suspended license of the 52627  
associated real estate salesperson shall be reactivated and no fee 52628  
shall be charged or collected for that reactivation. The 52629  
superintendent may process the application regardless of whether 52630  
the licensee's license is returned to the superintendent. 52631

Any person whose license is reactivated pursuant to this 52632  
division shall comply with the requirements of this section and 52633  
otherwise be in compliance with this chapter. 52634

(E) Any licensee who is a disabled licensee at any time 52635  
during the last three months of the third year of the licensee's 52636  
continuing education reporting period may receive an extension of 52637  
time as deemed appropriate by the superintendent to submit proof 52638  
to the superintendent that the licensee has satisfactorily 52639  
completed the required thirty hours of continuing education. To 52640  
receive an extension of time, the licensee shall submit a request 52641  
to the division of real estate for the extension and proof 52642  
satisfactory to the commission that the licensee was a disabled 52643  
licensee at some time during the last three months of the 52644  
three-year reporting period. The proof shall include, but is not 52645  
limited to, a signed statement by the licensee's attending 52646  
physician describing the disability, certifying that the 52647  
licensee's disability is of such a nature as to prevent the 52648  
licensee from attending any instruction lasting at least three 52649  
hours in duration, and stating the expected duration of the 52650  
disability. The licensee shall request the extension and provide 52651  
the physician's statement to the division no later than one month 52652  
prior to the end of the licensee's three-year continuing education 52653  
reporting period, unless the disability did not arise until the 52654  
last month of the three-year reporting period, in which event the 52655  
licensee shall request the extension and provide the physician's 52656  
statement as soon as practical after the occurrence of the 52657

disability. A licensee granted an extension pursuant to this 52658  
division who is no longer a disabled licensee and who submits 52659  
proof of completion of the continuing education during the 52660  
extension period, shall submit, for future continuing education 52661  
reporting periods, proof of completion of the continuing education 52662  
requirements according to the schedule established in division (A) 52663  
of this section. 52664

(F) The superintendent shall not renew a license if the 52665  
licensee fails to comply with this section, and the licensee shall 52666  
be required to pay the penalty fee provided in section 4735.14 of 52667  
the Revised Code. 52668

(G) A licensee shall submit proof of completion of the 52669  
required continuing education with the licensee's notice of 52670  
renewal. The proof shall be submitted in the manner provided by 52671  
the superintendent. 52672

**Sec. 4735.142.** (A) Any person licensed under section 4735.07 52673  
or 4735.09 of the Revised Code, at any time prior to the date the 52674  
licensee is required to file a notice of renewal pursuant to 52675  
division (B) of section 4735.14 of the Revised Code may apply to 52676  
the superintendent of real estate and professional licensing to 52677  
place the licensee's license ~~on voluntary hold or~~ in a permanently 52678  
resigned status. 52679

~~(B) If the superintendent has placed a license on voluntary 52680  
hold pursuant to a request made under division (A) of this 52681  
section, the licensee who requested that the licensee's license be 52682  
placed on voluntary hold may apply to the superintendent to 52683  
reactivate that license within twelve months after the date the 52684  
license is placed on voluntary hold. The superintendent shall 52685  
reactivate that license if the licensee complies with the 52686  
requirements for such reactivation that are specified in rules 52687  
adopted by the Ohio real estate commission pursuant to division 52688~~

~~(A) of section 4735.10 of the Revised Code and satisfies all of the following requirements:~~ 52689  
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~~(1) The licensee complies with the postlicensure education requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable;~~ 52691  
52692  
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~~(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code;~~ 52694  
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~~(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.~~ 52696  
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~~(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve month time period specified in that division or does not satisfy the requirements specified in that division during that twelve month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.~~ 52700  
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~~(D) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division (H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to voluntarily permanently resign the licensee's license voluntarily.~~ 52713  
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The resignation of a license is considered to be final without the 52720  
taking of any action by the superintendent. ~~If~~ 52721

(C) ~~If~~ a person whose license is in a permanently resigned 52722  
status pursuant to a request made under this ~~division~~ section 52723  
wishes to obtain an active or inactive license, the person shall 52724  
apply for such a license in accordance with the requirements 52725  
specified in section 4735.07 or 4735.09 of the Revised Code, as 52726  
applicable, or in the rules adopted by the commission pursuant to 52727  
division (A) of section 4735.10 of the Revised Code. 52728

~~(E)~~(D) If placing a broker's license ~~on voluntary hold or in~~ 52729  
a permanently resigned status will result in the closure of the 52730  
broker's brokerage, the broker, within three days after applying 52731  
to the superintendent to place the license ~~on voluntary hold or in~~ 52732  
a permanently resigned status, shall provide to each salesperson 52733  
associated with that broker a written notice stating that fact. 52734

~~(F)~~(E) This section does not apply to any licensee whose 52735  
license has been suspended pursuant to division (F) of section 52736  
4735.181 of the Revised Code or due to disciplinary action ordered 52737  
by the commission pursuant to section 4735.051 of the Revised 52738  
Code. 52739

**Sec. 4735.74.** Unless otherwise agreed in writing, a licensee 52740  
owes no further duty to a client after performance of all duties 52741  
or after any contract has terminated or expired, except for both 52742  
of the following: 52743

(A) Providing the client with an accounting of all moneys and 52744  
property relating to the transaction; 52745

(B) Keeping confidential all information received during the 52746  
course of the transaction unless: 52747

(1) The client permits disclosure; 52748

(2) Disclosure is required by law or by court order; 52749

|   |  |
|---|--|
| (3) The information becomes public from a source other than the licensee;   | 52750<br>52751   |
| (4) The information is necessary to prevent a crime the client intends to commit;   | 52752<br>52753   |
| (5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction- <u>i</u>   | 52754<br>52755<br>52756<br>52757                                     |
| (6) Disclosure is regarding sales information requested by a <del>registered</del> <u>real estate</u> appraiser assistant <u>registered under Chapter 4763. of the Revised Code</u> or a <del>licensed or certified</del> <u>real estate</u> appraiser <u>licensed or certified under Chapter 4763. of the Revised Code</u> for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division. | 52758<br>52759<br>52760<br>52761<br>52762<br>52763<br>52764          |
| <b>Sec. 4736.01.</b> As used in this chapter:   | 52765  |
| (A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation, and rabies control.              | 52766<br>52767<br>52768<br>52769<br>52770<br>52771<br>52772<br>52773 |
| (B) "Sanitarian" means a person who performs for compensation educational, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health science.  | 52774<br>52775<br>52776<br>52777                                     |
| (C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with this chapter.   | 52778<br>52779   |

(D) "Sanitarian-in-training" means a person who is registered 52780  
as a sanitarian-in-training in accordance with this chapter. 52781

(E) "Practice of environmental health" means consultation, 52782  
instruction, investigation, inspection, or evaluation by an 52783  
employee of a city health district, a general health district, the 52784  
environmental protection agency, the department of health, or the 52785  
department of agriculture requiring specialized knowledge, 52786  
training, and experience in the field of environmental health 52787  
science, with the primary purpose of improving or conducting 52788  
administration or enforcement under any of the following: 52789

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 52790  
3733. of the Revised Code; 52791

(2) Chapter 3734. of the Revised Code as it pertains to solid 52792  
waste; 52793

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 52794  
3707.38 to 3707.99, or section 3715.21 of the Revised Code; 52795

(4) Rules adopted under former section 3701.34 of the Revised 52796  
Code pertaining to rabies control or swimming pools; 52797

(5) Rules adopted under section 3701.935 of the Revised Code 52798  
for school health and safety network inspections and rules adopted 52799  
under section 3707.26 of the Revised Code for sanitary 52800  
inspections. 52801

"Practice of environmental health" does not include sampling, 52802  
testing, controlling of vectors, reporting of observations, or 52803  
other duties that do not require application of specialized 52804  
knowledge and skills in environmental health science performed 52805  
under the supervision of a registered sanitarian. 52806

The state board of sanitarian registration may further define 52807  
environmental health science in relation to specific functions in 52808  
the practice of environmental health through rules adopted by the 52809

board under Chapter 119. of the Revised Code. 52810

**Sec. 4740.03.** (A) The administrative section of the Ohio 52811  
construction industry licensing board annually shall elect from 52812  
among its members a chairperson and other officers as the board, 52813  
by rule, designates. The chairperson shall preside over meetings 52814  
of the administrative section or designate another member to 52815  
preside in the chairperson's absence. The administrative section 52816  
shall hold at least two regular meetings each year, but may meet 52817  
at additional times as specified by rule, at the call of the 52818  
chairperson, or upon the request of two or more members. A 52819  
majority of the members of the administrative section constitutes 52820  
a quorum for the transaction of all business. The administrative 52821  
section may not take any action without the concurrence of at 52822  
least three of its members. 52823

(B)(1) The administrative section shall employ a secretary, 52824  
who is not a member of the board, to serve at the pleasure of the 52825  
administrative section, and shall fix the compensation of the 52826  
secretary. The secretary shall be in the unclassified civil 52827  
service of the state. 52828

(2) The secretary shall do all of the following: 52829

(a) Keep or set standards for and delegate to another person 52830  
the keeping of the minutes, books, and other records and files of 52831  
the board and each section of the board; 52832

(b) Issue all licenses in the name of the board; 52833

(c) Send out all notices, including advance notices of 52834  
meetings of the board and each section of the board, and attend to 52835  
all correspondence of the board and each section of the board, 52836  
under the direction of the administrative section; 52837

(d) Receive and deposit all fees payable pursuant to this 52838  
chapter into the ~~labor~~ industrial compliance operating fund 52839

created pursuant to section 121.084 of the Revised Code; 52840

(e) Perform all other duties incidental to the office of the 52841  
secretary or properly assigned to the secretary by the 52842  
administrative section of the board. 52843

(3) Before entering upon the discharge of the duties of the 52844  
secretary, the secretary shall file with the treasurer of state a 52845  
bond in the sum of five thousand dollars, payable to the state, to 52846  
ensure the faithful performance of the secretary's duties. The 52847  
board shall pay the premium of the bond in the same manner as it 52848  
pays other expenditures of the board. 52849

(C) Upon the request of the administrative section of the 52850  
board, the director of commerce shall supply the board and its 52851  
sections with personnel, office space, and supplies, as the 52852  
director determines appropriate. The administrative section of the 52853  
board shall employ any additional staff it considers necessary and 52854  
appropriate. 52855

(D) The chairperson of the board or the secretary, or both, 52856  
as authorized by the board, shall approve all vouchers of the 52857  
board. 52858

**Sec. 4740.11.** The Ohio construction industry licensing board 52859  
and its sections shall deposit all receipts and fines collected 52860  
under this chapter into the state treasury to the credit of the 52861  
~~labor~~ industrial compliance operating fund created in section 52862  
121.084 of the Revised Code. 52863

**Sec. 4740.14.** (A) There is hereby created within the 52864  
department of commerce the residential construction advisory 52865  
committee consisting of nine persons the director of commerce 52866  
appoints. The advisory committee shall be made up of the following 52867  
members: 52868

(1) Three shall be general contractors who have recognized 52869

ability and experience in the construction of residential buildings. 52870  
52871

(2) Two shall be building officials who have experience administering and enforcing a residential building code. 52872  
52873

(3) One, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes. 52874  
52875  
52876  
52877

(4) One shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings. 52878  
52879  
52880

(5) One shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings. 52881  
52882  
52883

(6) One, chosen from a list of three names the Ohio municipal league submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department. 52884  
52885  
52886  
52887  
52888

(B) Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term. 52889  
52890  
52891  
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52895

(C) The advisory committee shall do all of the following: 52896

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it may model on a residential building code a national 52897  
52898  
52899

model code organization issues, with adaptations necessary to 52900  
implement the code in this state. If the board of building 52901  
standards decides not to adopt a code the committee recommends, 52902  
the committee shall revise the code and resubmit it until the 52903  
board adopts a code the committee recommends as the state 52904  
residential building code; 52905

(2) Advise the board regarding the establishment of standards 52906  
for certification of building officials who enforce the state 52907  
residential building code; 52908

(3) Assist the board in providing information and guidance to 52909  
residential contractors and building officials who enforce the 52910  
state residential building code; 52911

(4) Advise the board regarding the interpretation of the 52912  
state residential building code; 52913

(5) Provide other assistance the committee considers 52914  
necessary; 52915

(6) Provide the board with a written report of the 52916  
committee's findings for each consideration required by division 52917  
(D) of this section. 52918

(D) The committee shall not make its recommendation to the 52919  
board pursuant to divisions (C)(1), (2), and (4) of this section 52920  
until the advisory committee has considered all of the following: 52921

(1) The impact that the state residential building code may 52922  
have upon the health, safety, and welfare of the public; 52923

(2) The economic reasonableness of the residential building 52924  
code; 52925

(3) The technical feasibility of the residential building 52926  
code; 52927

(4) The financial impact that the residential building code 52928  
may have on the public's ability to purchase affordable housing. 52929

(E) The advisory committee may provide the board with any 52930  
rule the committee recommends to update or amend the state 52931  
residential building code or any rule that the committee 52932  
recommends to update or amend the state residential building code 52933  
after receiving a petition described in division (A)(2) of section 52934  
3781.12 of the Revised Code. 52935

(F) Members of the advisory committee shall receive no salary 52936  
for the performance of their duties as members, but shall receive 52937  
their actual and necessary expenses incurred in the performance of 52938  
their duties as members of the advisory committee and shall 52939  
receive a per diem for each day in attendance at an official 52940  
meeting of the committee, to be paid from the ~~labor~~ industrial  
compliance operating fund in the state treasury, using fees 52941  
collected in connection with residential buildings pursuant to 52942  
division (F)(2) of section 3781.102 of the Revised Code and 52943  
deposited in that fund. 52944  
52945

(G) The advisory committee is not subject to divisions (A) 52946  
and (B) of section 101.84 of the Revised Code. 52947

**Sec. 4743.05.** Except as otherwise provided in sections 52948  
4701.20, 4723.062, 4723.082, ~~and 4729.65, 4781.121, and 4781.28~~ of 52949  
the Revised Code, all money collected under Chapters 3773., 4701., 52950  
4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 52951  
4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 52952  
4761., ~~4766.~~, 4771., 4775., 4779., and 4781. of the Revised Code 52953  
shall be paid into the state treasury to the credit of the 52954  
occupational licensing and regulatory fund, which is hereby 52955  
created for use in administering such chapters. 52956

At the end of each quarter, the director of budget and 52957  
management shall transfer from the occupational licensing and 52958  
regulatory fund to the nurse education assistance fund created in 52959  
section 3333.28 of the Revised Code the amount certified to the 52960

director under division (B) of section 4723.08 of the Revised Code. 52961  
52962

At the end of each quarter, the director shall transfer from 52963  
the occupational licensing and regulatory fund to the certified 52964  
public accountant education assistance fund created in section 52965  
4701.26 of the Revised Code the amount certified to the director 52966  
under division (H)(2) of section 4701.10 of the Revised Code. 52967

**Sec. 4763.05.** (A)(1)(a) A person shall make application for 52968  
an initial state-certified general real estate appraiser 52969  
certificate, an initial state-certified residential real estate 52970  
appraiser certificate, an initial state-licensed residential real 52971  
estate appraiser license, or an initial state-registered real 52972  
estate appraiser assistant registration in writing to the 52973  
superintendent of real estate on a form the superintendent 52974  
prescribes. The application shall include the address of the 52975  
applicant's principal place of business and all other addresses at 52976  
which the applicant currently engages in the business of preparing 52977  
real estate appraisals and the address of the applicant's current 52978  
residence. The superintendent shall retain the applicant's current 52979  
residence address in a separate record which ~~shall~~ does not 52980  
constitute a public record for purposes of section ~~149.03~~ 149.43 52981  
of the Revised Code. The application shall indicate whether the 52982  
applicant seeks certification as a general real estate appraiser 52983  
or as a residential real estate appraiser, licensure as a 52984  
residential real estate appraiser, or registration as a real 52985  
estate appraiser assistant and be accompanied by the prescribed 52986  
examination and certification, registration, or licensure fees set 52987  
forth in section 4763.09 of the Revised Code. The application also 52988  
shall include a pledge, signed by the applicant, that the 52989  
applicant will comply with the standards set forth in this 52990  
chapter; and a statement that the applicant understands the types 52991  
of misconduct for which disciplinary proceedings may be initiated 52992

against the applicant pursuant to this chapter. 52993

(b) Upon the filing of an application and payment of any 52994  
examination and certification, registration, or licensure fees, 52995  
the superintendent of real estate shall request the superintendent 52996  
of the bureau of criminal identification and investigation, or a 52997  
vendor approved by the bureau, to conduct a criminal records check 52998  
based on the applicant's fingerprints in accordance with ~~division~~ 52999  
~~(A)(11)~~ of section 109.572 of the Revised Code. Notwithstanding 53000  
division (K) of section 121.08 of the Revised Code, the 53001  
superintendent of real estate shall request that criminal record 53002  
information from the federal bureau of investigation be obtained 53003  
as part of the criminal records check. Any fee required under 53004  
division (C)(3) of section 109.572 of the Revised Code shall be 53005  
paid by the applicant. 53006

(2) For purposes of providing funding for the real estate 53007  
appraiser recovery fund established by section 4763.16 of the 53008  
Revised Code, the real estate appraiser board shall levy an 53009  
assessment against each person issued an initial certificate, 53010  
registration, or license and against current licensees, 53011  
registrants, and certificate holders, as required by board rule. 53012  
The assessment is in addition to the application and examination 53013  
fees for initial applicants required by division (A)(1) of this 53014  
section and the renewal fees required for current certificate 53015  
holders, registrants, and licensees. The superintendent of real 53016  
estate shall deposit the assessment into the state treasury to the 53017  
credit of the real estate appraiser recovery fund. The assessment 53018  
for initial certificate holders, registrants, and licensees shall 53019  
be paid prior to the issuance of a certificate, registration, or 53020  
license, and for current certificate holders, registrants, and 53021  
licensees, at the time of renewal. 53022

(B) An applicant for an initial general real estate appraiser 53023  
certificate, residential real estate appraiser certificate, or 53024

residential real estate appraiser license shall possess experience 53025  
in real estate appraisal as the board prescribes by rule. In 53026  
addition to any other information required by the board, the 53027  
applicant shall furnish, under oath, a detailed listing of the 53028  
appraisal reports or file memoranda for each year for which 53029  
experience is claimed and, upon request of the superintendent or 53030  
the board, shall make available for examination a sample of the 53031  
appraisal reports prepared by the applicant in the course of the 53032  
applicant's practice. 53033

(C) An applicant for an initial certificate, registration, or 53034  
license shall be at least eighteen years of age, honest, truthful, 53035  
and of good reputation and shall present satisfactory evidence to 53036  
the superintendent that the applicant has successfully completed 53037  
any education requirements the board prescribes by rule. 53038

(D) An applicant for an initial general real estate appraiser 53039  
or residential real estate appraiser certificate or residential 53040  
real estate appraiser license shall take and successfully complete 53041  
a written examination in order to qualify for the certificate or 53042  
license. 53043

The board shall prescribe the examination requirements by 53044  
rule. 53045

(E)(1) A nonresident, natural person of this state who has 53046  
complied with this section may obtain a certificate, registration, 53047  
or license. The board shall adopt rules relating to the 53048  
certification, registration, and licensure of a nonresident 53049  
applicant whose state of residence the board determines to have 53050  
certification, registration, or licensure requirements that are 53051  
substantially similar to those set forth in this chapter and the 53052  
rules adopted thereunder. 53053

(2) The board shall recognize on a temporary basis a 53054  
certification or license issued in another state and shall 53055

register on a temporary basis an appraiser who is certified or 53056  
licensed in another state if all of the following apply: 53057

(a) The temporary registration is to perform an appraisal 53058  
assignment that is part of a federally related transaction. 53059

(b) The appraiser's business in this state is of a temporary 53060  
nature. 53061

(c) The appraiser registers with the board pursuant to this 53062  
division. 53063

An appraiser who is certified or licensed in another state 53064  
shall register with the board for temporary practice before 53065  
performing an appraisal assignment in this state in connection 53066  
with a federally related transaction. 53067

The board shall adopt rules relating to registration for the 53068  
temporary recognition of certification and licensure of appraisers 53069  
from another state. The registration for temporary recognition of 53070  
certified or licensed appraisers from another state shall not 53071  
authorize completion of more than one appraisal assignment in this 53072  
state. The board shall not issue more than two registrations for 53073  
temporary practice to any one applicant in any calendar year. 53074

(3) In addition to any other information required to be 53075  
submitted with the nonresident applicant's or appraiser's 53076  
application for a certificate, registration, license, or temporary 53077  
recognition of a certificate or license, each nonresident 53078  
applicant or appraiser shall submit a statement consenting to the 53079  
service of process upon the nonresident applicant or appraiser by 53080  
means of delivering that process to the secretary of state if, in 53081  
an action against the applicant, certificate holder, registrant, 53082  
or licensee arising from the applicant's, certificate holder's, 53083  
registrant's, or licensee's activities as a certificate holder, 53084  
registrant, or licensee, the plaintiff, in the exercise of due 53085  
diligence, cannot effect personal service upon the applicant, 53086

certificate holder, registrant, or licensee. 53087

(F) The superintendent shall not issue a certificate, 53088  
registration, or license to, or recognize on a temporary basis an 53089  
appraiser from another state that is a corporation, partnership, 53090  
or association. This prohibition shall not be construed to prevent 53091  
a certificate holder or licensee from signing an appraisal report 53092  
on behalf of a corporation, partnership, or association. 53093

(G) Every person licensed, registered, or certified under 53094  
this chapter shall notify the superintendent, on a form provided 53095  
by the superintendent, of a change in the address of the 53096  
licensee's, registrant's, or certificate holder's principal place 53097  
of business or residence within thirty days of the change. If a 53098  
licensee's, registrant's, or certificate holder's license, 53099  
registration, or certificate is revoked or not renewed, the 53100  
licensee, registrant, or certificate holder immediately shall 53101  
return the annual and any renewal certificate, registration, or 53102  
license to the superintendent. 53103

(H)(1) The superintendent shall not issue a certificate, 53104  
registration, or license to any person, or recognize on a 53105  
temporary basis an appraiser from another state, who does not meet 53106  
applicable minimum criteria for state certification, registration, 53107  
or licensure prescribed by federal law or rule. 53108

(2) The superintendent shall not issue a general real estate 53109  
appraiser certificate, residential real estate appraiser 53110  
certificate, residential real estate appraiser license, or real 53111  
estate appraiser assistant registration to any person who has been 53112  
convicted of or pleaded guilty to any criminal offense involving 53113  
theft, receiving stolen property, embezzlement, forgery, fraud, 53114  
passing bad checks, money laundering, or drug trafficking, or any 53115  
criminal offense involving money or securities, including a 53116  
violation of an existing or former law of this state, any other 53117  
state, or the United States that substantially is equivalent to 53118

such an offense. However, if the applicant has pleaded guilty to 53119  
or been convicted of such an offense, the superintendent shall not 53120  
consider the offense if the applicant has proven to the 53121  
superintendent, by a preponderance of the evidence, that the 53122  
applicant's activities and employment record since the conviction 53123  
show that the applicant is honest, truthful, and of good 53124  
reputation, and there is no basis in fact for believing that the 53125  
applicant will commit such an offense again. 53126

**Sec. 4765.02.** (A)(1) There is hereby created the state board 53127  
of emergency medical, fire, and transportation services within the 53128  
division of emergency medical services of the department of public 53129  
safety. The board shall consist of the members specified in this 53130  
section who are residents of this state. The governor, with the 53131  
advice and consent of the senate, shall appoint all members of the 53132  
board, except the employee of the department of public safety 53133  
designated by the director of public safety under this section to 53134  
be a member of the board. In making the appointments, the governor 53135  
shall appoint only members with background or experience in 53136  
emergency medical services or trauma care and shall attempt to 53137  
include members representing urban and rural areas, various 53138  
geographical regions of the state, and various schools of 53139  
training. 53140

(2) One member of the board shall be a physician certified by 53141  
the American board of emergency medicine or the American 53142  
osteopathic board of emergency medicine who is active in the 53143  
practice of emergency medicine and is actively involved with an 53144  
emergency medical service organization. The governor shall appoint 53145  
this member from among three persons nominated by the Ohio chapter 53146  
of the American college of emergency physicians and three persons 53147  
nominated by the Ohio osteopathic association. One member shall be 53148  
a physician certified by the American board of surgery or the 53149  
American osteopathic board of surgery who is active in the 53150

practice of trauma surgery and is actively involved with emergency 53151  
medical services. The governor shall appoint this member from 53152  
among three persons nominated by the Ohio chapter of the American 53153  
college of surgeons and three persons nominated by the Ohio 53154  
osteopathic association. One member shall be a physician certified 53155  
by the American academy of pediatrics or American osteopathic 53156  
board of pediatrics who is active in the practice of pediatric 53157  
emergency medicine and actively involved with an emergency medical 53158  
service organization. The governor shall appoint this member from 53159  
among three persons nominated by the Ohio chapter of the American 53160  
academy of pediatrics and three persons nominated by the Ohio 53161  
osteopathic association. ~~One member shall be the administrator of~~ 53162  
~~an adult or pediatric trauma center. The governor shall appoint~~ 53163  
~~this member from among three persons nominated by the OHA: the~~ 53164  
~~association for hospitals and health systems, three persons~~ 53165  
~~nominated by the Ohio osteopathic association, three persons~~ 53166  
~~nominated by the association of Ohio children's hospitals, and~~ 53167  
~~three persons nominated by the health forum of Ohio.~~ One member 53168  
shall be the administrator of a hospital ~~that is not a trauma~~ 53169  
~~center~~ located in this state. The governor shall appoint this 53170  
member from among three persons nominated by OHA: the association 53171  
for hospitals and health systems, three persons nominated by the 53172  
Ohio osteopathic association, and three persons nominated by the 53173  
association of Ohio children's hospitals, ~~and three persons~~ 53174  
~~nominated by the health forum of Ohio.~~ One member shall be a 53175  
registered nurse with EMS certification ~~who is in the active~~ 53176  
~~practice of emergency nursing~~ performs mobile intensive care or 53177  
air medical transport. The governor shall appoint this member from 53178  
among three persons nominated by the Ohio nurses association, 53179  
three persons nominated by the Ohio association of critical care 53180  
transport, and three persons nominated by the Ohio state council 53181  
of the emergency nurses association. One member shall be the chief 53182  
of a fire department that is also an emergency medical service 53183

organization in which more than fifty per cent of the persons who 53184  
provide emergency medical services are full-time paid employees. 53185  
The governor shall appoint this member from among three persons 53186  
nominated by the Ohio fire chiefs' association. One member shall 53187  
be the chief of a fire department that is also an emergency 53188  
medical service organization in which more than fifty per cent of 53189  
the persons who provide emergency medical services are volunteers. 53190  
The governor shall appoint this member from among three persons 53191  
nominated by the Ohio fire chiefs' association. One member shall 53192  
be a person who is certified to teach under section 4765.23 of the 53193  
Revised Code ~~or, if the board has not yet certified persons to~~ 53194  
~~teach under that section, a person who is qualified to be~~ 53195  
~~certified to teach under that section and holds a valid~~ 53196  
certificate to practice as an EMT, advanced EMT, or paramedic. The 53197  
governor shall appoint this member from among three persons 53198  
nominated by the Ohio emergency medical technician instructors 53199  
association and the Ohio instructor/coordinators' society. One 53200  
member shall be an ~~EMT basic, one shall be an EMT-I~~ EMT, advanced 53201  
EMT, or paramedic, and one member shall be a paramedic. The 53202  
governor shall appoint these members from among three ~~EMTs basic,~~ 53203  
~~three EMTs I,~~ EMTs or advanced EMTs and three paramedics nominated 53204  
by the Ohio association of professional fire fighters ~~and three~~ 53205  
~~EMTs basic, three EMTs I, and three paramedics nominated by the~~ 53206  
~~northern Ohio fire fighters.~~ One member shall be an ~~EMT basic, one~~ 53207  
~~shall be an EMT-I~~ EMT, advanced EMT, or paramedic, and one member 53208  
shall be a paramedic ~~whom the.~~ The governor shall appoint these 53209  
members from among three ~~EMTs basic, three EMTs I,~~ EMTs or 53210  
advanced EMTs and three paramedics nominated by the Ohio state 53211  
firefighter's association. One member shall be a person whom the 53212  
governor shall appoint from among an ~~EMT basic, an EMT-I, and~~ EMT, 53213  
an advanced EMT, or a paramedic nominated by the Ohio association 53214  
of emergency medical services or the Ohio ambulance and medical 53215  
transportation association. One member shall be an EMT, an 53216

~~advanced EMT, or a paramedic, whom the governor shall appoint from~~ 53217  
~~among three persons nominated by the Ohio ambulance and medical~~ 53218  
~~transportation association. One member shall be a paramedic, whom~~ 53219  
~~the governor shall appoint from among three persons nominated by~~ 53220  
~~the Ohio ambulance and medical transportation association. The~~ 53221  
~~governor shall appoint one member who is an EMT basic, EMT I, or~~ 53222  
~~paramedic affiliated with an emergency medical services~~ 53223  
~~organization. One member shall be a member of the Ohio ambulance~~ 53224  
~~association whom the governor shall appoint from among three~~ 53225  
~~persons nominated by the Ohio ambulance association. One member~~ 53226  
~~shall be a physician certified by the American board of surgery,~~ 53227  
~~American board of osteopathic surgery, American osteopathic board~~ 53228  
~~of emergency medicine, or American board of emergency medicine who~~ 53229  
~~is the chief medical officer of an air medical agency and is~~ 53230  
~~currently active in providing emergency medical services. The~~ 53231  
~~governor shall appoint this member from among three persons~~ 53232  
~~nominated by the Ohio association of air medical services. One~~ 53233  
~~member shall be the owner or operator of a private emergency~~ 53234  
~~medical service organization whom the governor shall appoint from~~ 53235  
~~among three persons nominated by the Ohio ambulance and medical~~ 53236  
~~transportation association. One member shall be a provider of~~ 53237  
~~mobile intensive care unit transportation in this state whom the~~ 53238  
~~governor shall appoint from among three persons nominated by the~~ 53239  
~~Ohio association of critical care transport. One member shall be a~~ 53240  
~~provider of air-medical transportation in this state whom the~~ 53241  
~~governor shall appoint from among three persons nominated by the~~ 53242  
~~Ohio association of critical care transport. One member shall be~~ 53243  
~~the owner or operator of a nonemergency medical service~~ 53244  
~~organization in this state that provides ambulette services whom~~ 53245  
~~the governor shall appoint from among three persons nominated by~~ 53246  
~~the Ohio ambulance and medical transportation association.~~ 53247

The governor may refuse to appoint any of the persons 53248  
nominated by one or more organizations under division (A)(2) of 53249

this section, except the employee of the department of public safety designated by the director of public safety under this section to be a member of the board. In that event, the organization or organizations shall continue to nominate the required number of persons until the governor appoints to the board one or more of the persons nominated by the organization or organizations.

The director of public safety shall designate an employee of the department of public safety to serve as a member of the board at the director's pleasure. This member shall serve as a liaison between the department and the division of emergency medical services in cooperation with the executive director of the board.

~~Initial appointments to the board by the governor and the director of public safety shall be made within ninety days after November 12, 1992. Of the initial appointments by the governor, five shall be for terms ending one year after November 12, 1992, six shall be for terms ending two years after November 12, 1992, and six shall be for terms ending three years after November 12, 1992. Within ninety days after the effective date of this amendment, the governor shall appoint the member of the board who is the chief medical officer of an air medical agency for an initial term ending November 12, 2000. Thereafter, terms~~

(B) Terms of office of all members appointed by the governor shall be for three years, each term ending on the same day of the same month as did the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Each vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy

occurring prior to the expiration of the term for which the 53282  
member's predecessor was appointed shall hold office for the 53283  
remainder of the unexpired term. 53284

The term of a member shall expire if the member ceases to 53285  
meet any of the requirements to be appointed as that member. The 53286  
governor may remove any member from office for neglect of duty, 53287  
malfeasance, misfeasance, or nonfeasance, after an adjudication 53288  
hearing held in accordance with Chapter 119. of the Revised Code. 53289

(C) The members of the board shall serve without compensation 53290  
but shall be reimbursed for their actual and necessary expenses 53291  
incurred in carrying out their duties as board members. 53292

(D) The board shall organize by annually selecting a chair 53293  
and vice-chair from among its members. The board may adopt bylaws 53294  
to regulate its affairs. A majority of all members of the board 53295  
shall constitute a quorum. No action shall be taken without the 53296  
concurrence of a majority of all members of the board. The board 53297  
shall meet at least four times annually and at the call of the 53298  
chair. The chair shall call a meeting on the request of the 53299  
executive director or the medical director of the board or on the 53300  
written request of five members. The board shall maintain written 53301  
or electronic records of its meetings. 53302

(E) Upon twenty-four hours' notice from a member of the 53303  
board, the member's employer shall release the member from the 53304  
member's employment duties to attend meetings of the full board. 53305  
Nothing in this ~~paragraph~~ division requires the employer of a 53306  
member of the board to compensate the member for time the member 53307  
is released from employment duties under this paragraph, but any 53308  
civil immunity, workers' compensation, disability, or similar 53309  
coverage that applies to a member of the board as a result of the 53310  
member's employment shall continue to apply while the member is 53311  
released from employment duties under this paragraph. 53312

**Sec. 4765.03.** (A) The director of public safety shall appoint 53313  
a full-time executive director for the state board of emergency 53314  
medical and transportation services. The executive director shall 53315  
be knowledgeable in emergency medical services and trauma care and 53316  
shall serve at the pleasure of the director of public safety. The 53317  
director of public safety shall appoint the executive director 53318  
from among three persons nominated by the board. The director of 53319  
public safety may refuse, for cause, to appoint any of the board's 53320  
nominees. If the director fails to appoint any of the board's 53321  
nominees, the board shall continue to nominate groups of three 53322  
persons until the director does appoint one of the board's 53323  
nominees. The executive director shall serve as the chief 53324  
executive officer of the board and as the executive director of 53325  
the division of emergency medical services. The executive director 53326  
shall attend each meeting of the board, except the board may 53327  
exclude the executive director from discussions concerning the 53328  
employment or performance of the executive director or medical 53329  
director of the board. The executive director shall give a surety 53330  
bond to the state in such sum as the board determines, conditioned 53331  
on the faithful performance of the duties of the executive 53332  
director's office. The executive director shall receive a salary 53333  
from the board and shall be reimbursed for actual and necessary 53334  
expenses incurred in carrying out duties as executive director. 53335  
53336

The executive director shall submit a report to the director 53337  
of public safety at least every three months regarding the status 53338  
of emergency medical services in this state. The executive 53339  
director shall meet with the director of public safety at the 53340  
director's request. 53341

(B) The board shall appoint a medical director, who shall 53342  
serve at the pleasure of the board. The medical director shall be 53343  
a physician certified by the American board of emergency medicine 53344

or the American osteopathic board of emergency medicine who is 53345  
active in the practice of emergency medicine and has been actively 53346  
involved with an emergency medical service organization for at 53347  
least five years prior to being appointed. The board shall 53348  
consider any recommendations for this appointment from the Ohio 53349  
chapter of the American college of emergency physicians, the Ohio 53350  
chapter of the American college of surgeons, the Ohio chapter of 53351  
the American academy of pediatrics, the Ohio osteopathic 53352  
association, and the Ohio state medical association. 53353

The medical director shall direct the executive director and 53354  
advise the board with regard to adult and pediatric trauma and 53355  
emergency medical services issues. The medical director shall 53356  
attend each meeting of the board, except the board may exclude the 53357  
medical director from discussions concerning the appointment or 53358  
performance of the medical director or executive director of the 53359  
board. The medical director shall be employed and paid by the 53360  
board and shall be reimbursed for actual and necessary expenses 53361  
incurred in carrying out duties as medical director. 53362

(C) The board may appoint employees as it determines 53363  
necessary. The board shall prescribe the duties and titles of its 53364  
employees. 53365

**Sec. 4765.04.** (A) The firefighter and fire safety inspector 53366  
training committee of the state board of emergency medical, fire, 53367  
and transportation services is hereby created and shall consist of 53368  
the members of the board who are chiefs of fire departments, and 53369  
the members of the board who are emergency medical 53370  
technicians-basic, emergency medical technicians-intermediate, and 53371  
emergency medical technicians-paramedic appointed from among 53372  
persons nominated by the Ohio association of professional fire 53373  
fighters or the northern Ohio fire fighters and from among persons 53374  
nominated by the Ohio state firefighter's association. Each member 53375

of the committee, except the chairperson, may designate a person 53376  
with fire experience to serve in that member's place. The members 53377  
of the committee or their designees shall select a chairperson 53378  
from among the members or their designees. 53379

The committee may conduct investigations in the course of 53380  
discharging its duties under this chapter. In the course of an 53381  
investigation, the committee may issue subpoenas. If a person 53382  
subpoenaed fails to comply with the subpoena, the committee may 53383  
authorize its chairperson to apply to the court of common pleas in 53384  
the county where the person to be subpoenaed resides for an order 53385  
compelling compliance in the same manner as compliance with a 53386  
subpoena issued by the court is compelled. 53387

(B) The trauma committee of the state board of emergency 53388  
medical, fire, and transportation services is hereby created and 53389  
shall consist of the following members appointed by the director 53390  
of public safety: 53391

(1) A physician who is certified by the American board of 53392  
surgery or American osteopathic board of surgery and actively 53393  
practices general trauma surgery, appointed from among three 53394  
persons nominated by the Ohio chapter of the American college of 53395  
surgeons, three persons nominated by the Ohio state medical 53396  
association, and three persons nominated by the Ohio osteopathic 53397  
association; 53398

(2) A physician who is certified by the American board of 53399  
surgery or the American osteopathic board of surgery and actively 53400  
practices orthopedic trauma surgery, appointed from among three 53401  
persons nominated by the Ohio orthopedic society and three persons 53402  
nominated by the Ohio osteopathic association; 53403

(3) A physician who is certified by the American board of 53404  
neurological surgeons or the American osteopathic board of surgery 53405  
and actively practices neurosurgery on trauma victims, appointed 53406

from among three persons nominated by the Ohio state neurological 53407  
society and three persons nominated by the Ohio osteopathic 53408  
association; 53409

(4) A physician who is certified by the American board of 53410  
surgeons or American osteopathic board of surgeons and actively 53411  
specializes in treating burn victims, appointed from among three 53412  
persons nominated by the Ohio chapter of the American college of 53413  
surgeons and three persons nominated by the Ohio osteopathic 53414  
association; 53415

(5) A dentist who is certified by the American board of oral 53416  
and maxillofacial surgery and actively practices oral and 53417  
maxillofacial surgery, appointed from among three persons 53418  
nominated by the Ohio dental association; 53419

(6) A physician who is certified by the American board of 53420  
physical medicine and rehabilitation or American osteopathic board 53421  
of rehabilitation medicine and actively provides rehabilitative 53422  
care to trauma victims, appointed from among three persons 53423  
nominated by the Ohio society of physical medicine and 53424  
rehabilitation and three persons nominated by the Ohio osteopathic 53425  
association; 53426

(7) A physician who is certified by the American board of 53427  
surgery or American osteopathic board of surgery with special 53428  
qualifications in pediatric surgery and actively practices 53429  
pediatric trauma surgery, appointed from among three persons 53430  
nominated by the Ohio chapter of the American academy of 53431  
pediatrics and three persons nominated by the Ohio osteopathic 53432  
association; 53433

(8) A physician who is certified by the American board of 53434  
emergency medicine or American osteopathic board of emergency 53435  
medicine, actively practices emergency medicine, and is actively 53436  
involved in emergency medical services, appointed from among three 53437

persons nominated by the Ohio chapter of the American college of 53438  
emergency physicians and three persons nominated by the Ohio 53439  
osteopathic association; 53440

(9) A physician who is certified by the American board of 53441  
pediatrics, American osteopathic board of pediatrics, or American 53442  
board of emergency medicine, is sub-boarded in pediatric emergency 53443  
medicine, actively practices pediatric emergency medicine, and is 53444  
actively involved in emergency medical services, appointed from 53445  
among three persons nominated by the Ohio chapter of the American 53446  
academy of pediatrics, three persons nominated by the Ohio chapter 53447  
of the American college of emergency physicians, and three persons 53448  
nominated by the Ohio osteopathic association; 53449

(10) A physician who is certified by the American board of 53450  
surgery, American osteopathic board of surgery, or American board 53451  
of emergency medicine and is the chief medical officer of an air 53452  
medical organization, appointed from among three persons nominated 53453  
by the Ohio association of air medical services; 53454

(11) A coroner or medical examiner appointed from among three 53455  
people nominated by the Ohio state coroners' association; 53456

(12) A registered nurse who actively practices trauma nursing 53457  
at an adult or pediatric trauma center, appointed from among three 53458  
persons nominated by the Ohio association of trauma nurse 53459  
coordinators; 53460

(13) A registered nurse who actively practices emergency 53461  
nursing and is actively involved in emergency medical services, 53462  
appointed from among three persons nominated by the Ohio chapter 53463  
of the emergency nurses' association; 53464

(14) The chief trauma registrar of an adult or pediatric 53465  
trauma center, appointed from among three persons nominated by the 53466  
alliance of Ohio trauma registrars; 53467

(15) The administrator of an adult or pediatric trauma 53468

center, appointed from among three persons nominated by OHA: the 53469  
association for hospitals and health systems, three persons 53470  
nominated by the Ohio osteopathic association, three persons 53471  
nominated by the association of Ohio children's hospitals, and 53472  
three persons nominated by the health forum of Ohio; 53473

(16) The administrator of a hospital that is not a trauma 53474  
center and actively provides emergency care to adult or pediatric 53475  
trauma patients, appointed from among three persons nominated by 53476  
OHA: the association for hospitals and health systems, three 53477  
persons nominated by the Ohio osteopathic association, three 53478  
persons nominated by the association of Ohio children's hospitals, 53479  
and three persons nominated by the health forum of Ohio; 53480

(17) The operator of an ambulance company that actively 53481  
provides trauma care to emergency patients, appointed from among 53482  
three persons nominated by the Ohio ambulance association; 53483

(18) The chief of a fire department that actively provides 53484  
trauma care to emergency patients, appointed from among three 53485  
persons nominated by the Ohio fire chiefs' association; 53486

(19) An EMT or paramedic who is certified under this chapter 53487  
and actively provides trauma care to emergency patients, appointed 53488  
from among three persons nominated by the Ohio association of 53489  
professional firefighters, three persons nominated by the northern 53490  
Ohio fire fighters, three persons nominated by the Ohio state 53491  
firefighters' association, and three persons nominated by the Ohio 53492  
association of emergency medical services; 53493

(20) A person who actively advocates for trauma victims, 53494  
appointed from three persons nominated by the Ohio brain injury 53495  
association and three persons nominated by the governor's council 53496  
on people with disabilities; 53497

(21) A physician or nurse who has substantial administrative 53498  
responsibility for trauma care provided in or by an adult or 53499

pediatric trauma center, appointed from among three persons 53500  
nominated by OHA: the association for hospitals and health 53501  
systems, three persons nominated by the Ohio osteopathic 53502  
association, three persons nominated by the association of Ohio 53503  
children's hospitals, and three persons nominated by the health 53504  
forum of Ohio; 53505

(22) Three representatives of hospitals that are not trauma 53506  
centers and actively provide emergency care to trauma patients, 53507  
appointed from among three persons nominated by OHA: the 53508  
association for hospitals and health systems, three persons 53509  
nominated by the Ohio osteopathic association, three persons 53510  
nominated by the association of Ohio children's hospitals, and 53511  
three persons nominated by the health forum of Ohio. The 53512  
representatives may be hospital administrators, physicians, 53513  
nurses, or other clinical professionals. 53514

Members of the committee shall have substantial experience in 53515  
the categories they represent, shall be residents of this state, 53516  
and may be members of the state board of emergency medical, fire, 53517  
and transportation services. In appointing members of the 53518  
committee, the director shall attempt to include members 53519  
representing urban and rural areas, various geographical areas of 53520  
the state, and various schools of training. The director shall not 53521  
appoint to the committee more than one member who is employed by 53522  
or practices at the same hospital, health system, or emergency 53523  
medical service organization. 53524

The director may refuse to appoint any of the persons 53525  
nominated by an organization or organizations under this division. 53526  
In that event, the organization or organizations shall continue to 53527  
nominate the required number of persons until the director 53528  
appoints to the committee one or more of the persons nominated by 53529  
the organization or organizations. 53530

Initial appointments to the committee shall be made by the 53531

director not later than ninety days after November 3, 2000. 53532  
Members of the committee shall serve at the pleasure of the 53533  
director, except that any member of the committee who ceases to be 53534  
qualified for the position to which the member was appointed shall 53535  
cease to be a member of the committee. Vacancies on the committee 53536  
shall be filled in the same manner as original appointments. 53537

The members of the committee shall serve without compensation 53538  
but shall be reimbursed for actual and necessary expenses incurred 53539  
in carrying out duties as members of the committee. 53540

The committee shall select a chairperson and vice-chairperson 53541  
from among its members. A majority of all members of the committee 53542  
shall constitute a quorum. No action shall be taken without the 53543  
concurrence of a majority of all members of the committee. The 53544  
committee shall meet at the call of the chair, upon written 53545  
request of five members of the committee, and at the direction of 53546  
the state board of emergency medical, fire, and transportation 53547  
services. The committee shall not meet at times or locations that 53548  
conflict with meetings of the board. The executive director and 53549  
medical director of the state board of emergency medical, fire, 53550  
and transportation services may participate in any meeting of the 53551  
committee and shall do so at the request of the committee. 53552

The committee shall advise and assist the state board of 53553  
emergency medical, fire, and transportation services in matters 53554  
related to adult and pediatric trauma care and the establishment 53555  
and operation of the state trauma registry. In matters relating to 53556  
the state trauma registry, the board and the committee shall 53557  
consult with trauma registrars from adult and pediatric trauma 53558  
centers in the state. The committee may appoint a subcommittee to 53559  
advise and assist with the trauma registry. The subcommittee may 53560  
include persons with expertise relevant to the trauma registry who 53561  
are not members of the board or committee. 53562

(C) The state board of emergency medical, fire, and 53563

transportation services may appoint other committees and 53564  
subcommittees as it considers necessary. 53565

(D) The state board of emergency medical, fire, and 53566  
transportation services, and any of its committees or 53567  
subcommittees, may request assistance from any state agency. The 53568  
board and its committees and subcommittees may permit persons who 53569  
are not members of those bodies to participate in deliberations of 53570  
those bodies, but no person who is not a member of the board shall 53571  
vote on the board and no person who is not a member of a committee 53572  
created under division (A) or (B) of this section shall vote on 53573  
that committee. 53574

(E) Sections 101.82 to 101.87 of the Revised Code do not 53575  
apply to the committees established under division (A) or (B) of 53576  
this section. 53577

**Sec. 4765.05.** (A) As used in this section, "prehospital 53578  
emergency medical services" means an emergency medical services 53579  
system that provides medical services to patients who require 53580  
immediate assistance, because of illness or injury, prior to their 53581  
arrival at an emergency medical facility. 53582

(B) The state board of emergency medical, fire, and 53583  
transportation services shall divide the state geographically into 53584  
prehospital emergency medical services regions for purposes of 53585  
overseeing the delivery of adult and pediatric prehospital 53586  
emergency medical services. For each prehospital emergency medical 53587  
services region, the state board of emergency medical, fire, and 53588  
transportation services shall appoint either a physician to serve 53589  
as the regional director or a physician advisory board to serve as 53590  
the regional advisory board. The state board of emergency medical, 53591  
fire, and transportation services shall specify the duties of each 53592  
regional director and regional advisory board. Regional directors 53593  
and members of regional advisory boards shall serve without 53594

compensation, but shall be reimbursed for actual and necessary 53595  
expenses incurred in carrying out duties as regional directors and 53596  
members of regional advisory boards. 53597

(C) Nothing in this section shall be construed to limit in 53598  
any way the ability of a hospital to determine the market area of 53599  
that hospital. 53600

**Sec. 4765.06.** (A) The state board of emergency medical, fire, 53601  
and transportation services shall establish an emergency medical 53602  
services incidence reporting system for the collection of 53603  
information regarding the delivery of emergency medical services 53604  
in this state and the frequency at which the services are 53605  
provided. All emergency medical service organizations shall submit 53606  
to the board any information that the board determines is 53607  
necessary for maintaining the incidence reporting system. 53608

(B) The board shall establish a state trauma registry to be 53609  
used for the collection of information regarding the care of adult 53610  
and pediatric trauma victims in this state. The registry shall 53611  
provide for the reporting of adult and pediatric trauma-related 53612  
deaths, identification of adult and pediatric trauma patients, 53613  
monitoring of adult and pediatric trauma patient care data, 53614  
determination of the total amount of uncompensated adult and 53615  
pediatric trauma care provided annually by each facility that 53616  
provides care to trauma victims, and collection of any other 53617  
information specified by the board. All persons designated by the 53618  
board shall submit to the board any information it determines is 53619  
necessary for maintaining the state trauma registry. At the 53620  
request of the board any state agency possessing information 53621  
regarding adult or pediatric trauma care shall provide the 53622  
information to the board. The board shall maintain the state 53623  
trauma registry in accordance with rules adopted under section 53624  
4765.11 of the Revised Code. 53625

Rules relating to the state trauma registry adopted under 53626  
this section and section 4765.11 of the Revised Code shall not 53627  
prohibit the operation of other trauma registries and may provide 53628  
for the reporting of information to the state trauma registry by 53629  
or through other trauma registries in a manner consistent with 53630  
information otherwise reported to the state trauma registry. Other 53631  
trauma registries may report aggregate information to the state 53632  
trauma registry, provided the information can be matched to the 53633  
person that reported it. Information maintained by another trauma 53634  
registry and reported to the state trauma registry in lieu of 53635  
being reported directly to the state trauma registry is a public 53636  
record and shall be maintained, made available to the public, held 53637  
in confidence, risk adjusted, and not subject to discovery or 53638  
introduction into evidence in a civil action as provided in 53639  
section 149.43 of the Revised Code and this section. Any person 53640  
who provides, maintains, or risk adjusts such information shall 53641  
comply with this section and rules adopted under it in performing 53642  
that function and has the same immunities with respect to that 53643  
function as a person who performs that function with respect to 53644  
the state trauma registry. 53645

(C) The board and any employee or contractor of the board or 53646  
the department of public safety shall not make public information 53647  
it receives under Chapter 4765. of the Revised Code that 53648  
identifies or would tend to identify a specific recipient of 53649  
emergency medical services or adult or pediatric trauma care. 53650

(D) Not later than two years after ~~the effective date of this~~ 53651  
~~amendment~~ November 3, 2000, the board shall adopt and implement 53652  
rules under section 4765.11 of the Revised Code that provide 53653  
written standards and procedures for risk adjustment of 53654  
information received by the board under Chapter 4765. of the 53655  
Revised Code. The rules shall be developed in consultation with 53656  
appropriate medical, hospital, and emergency medical service 53657

organizations and may provide for risk adjustment by a contractor 53658  
of the board. Before risk adjustment standards and procedures are 53659  
implemented, no member of the board and no employee or contractor 53660  
of the board or the department of public safety shall make public 53661  
information received by the board under Chapter 4765. of the 53662  
Revised Code that identifies or would tend to identify a specific 53663  
provider of emergency medical services or adult or pediatric 53664  
trauma care. After risk adjustment standards and procedures are 53665  
implemented, the board shall make public such information only on 53666  
a risk adjusted basis. 53667

(E) The board shall adopt rules under section 4765.11 of the 53668  
Revised Code that specify procedures for ensuring the 53669  
confidentiality of information that is not to be made public under 53670  
this section. The rules shall specify the circumstances in which 53671  
deliberations of the persons performing risk adjustment functions 53672  
under this section are not open to the public and records of those 53673  
deliberations are maintained in confidence. Nothing in this 53674  
section prohibits the board from making public statistical 53675  
information that does not identify or tend to identify a specific 53676  
recipient or provider of emergency medical services or adult or 53677  
pediatric trauma care. 53678

(F) No provider that furnishes information to the board with 53679  
respect to any patient the provider examined or treated shall, 53680  
because of this furnishing, be deemed liable in damages to any 53681  
person or be held to answer for betrayal of a professional 53682  
confidence in the absence of willful or wanton misconduct. No such 53683  
information shall be subject to introduction in evidence in any 53684  
civil action against the provider. No provider that furnishes 53685  
information to the board shall be liable for the misuse or 53686  
improper release of the information by the board or any other 53687  
person. 53688

No person who performs risk adjustment functions under this 53689

section shall, because of performing such functions, be held 53690  
liable in a civil action for betrayal of professional confidence 53691  
or otherwise in the absence of willful or wanton misconduct. 53692

**Sec. 4765.07.** (A) The state board of emergency medical, fire, 53693  
and transportation services shall adopt rules under section 53694  
4765.11 of the Revised Code to establish and administer a grant 53695  
program under which grants are distributed according to the 53696  
following priorities: 53697

(1) First priority shall be given to emergency medical 53698  
service organizations for the training of personnel, for the 53699  
purchase of equipment and vehicles, and to improve the 53700  
availability, accessibility, and quality of emergency medical 53701  
services in this state. In this category, the board shall give 53702  
priority to grants that fund training and equipping of emergency 53703  
medical service personnel. 53704

(2) Second priority shall be given to entities that research, 53705  
test, and evaluate medical procedures and systems related to adult 53706  
and pediatric trauma care. 53707

(3) Third priority shall be given to entities that research 53708  
the causes, nature, and effects of traumatic injuries, educate the 53709  
public about injury prevention, and implement, test, and evaluate 53710  
injury prevention strategies. 53711

(4) Fourth priority shall be given to entities that research, 53712  
test, and evaluate procedures that promote the rehabilitation, 53713  
retraining, and reemployment of adult or pediatric trauma victims 53714  
and social service support mechanisms for adult or pediatric 53715  
trauma victims and their families. 53716

(5) Fifth priority shall be given to entities that conduct 53717  
research on, test, or evaluate one or more of the following: 53718

(a) Procedures governing the performance of emergency medical 53719

services in this state; 53720

(b) The training of emergency medical service personnel; 53721

(c) The staffing of emergency medical service organizations. 53722

(6) For grants distributed for the grant award years 53723  
occurring not later than the award year ending June 30, 2017, 53724  
sixth priority shall be given to entities that operate paramedic 53725  
training programs and are seeking national accreditation of the 53726  
programs. 53727

(B) To be eligible for a grant distributed pursuant to 53728  
division (A)(6) of this section, an applicant for the grant shall 53729  
meet all of the following conditions: 53730

(1) Hold a certificate of accreditation issued by the board 53731  
under section 4765.17 of the Revised Code to operate a paramedic 53732  
training program; 53733

(2) Be seeking initial national accreditation of the program 53734  
from an accrediting organization approved by the board; 53735

(3) Apply for the national accreditation on or after February 53736  
25, 2010. 53737

(C) The grant program shall be funded from the trauma and 53738  
emergency medical services ~~grants~~ fund created by section 4513.263 53739  
of the Revised Code. 53740

**Sec. 4765.08.** The state board of emergency medical, fire, and 53741  
transportation services shall prepare a statewide emergency 53742  
medical services plan and shall revise the plan as necessary. 53743

The board shall prepare a plan for the statewide regulation 53744  
of emergency medical services during periods of disaster. The plan 53745  
shall be consistent with the statewide emergency medical services 53746  
plan required under this section and with the statewide emergency 53747  
operations plan required under section 5502.22 of the Revised 53748

Code. The board shall submit the plan to the emergency management 53749  
agency created under section 5502.22 of the Revised Code. The 53750  
board shall cooperate with the agency in any other manner the 53751  
agency considers necessary to develop and implement the statewide 53752  
emergency operations plan. 53753

**Sec. 4765.09.** The state board of emergency medical, fire, and 53754  
transportation services shall prepare recommendations for the 53755  
operation of ambulance service organizations, air medical 53756  
organizations, and emergency medical service organizations. Within 53757  
thirty days following the preparation or modification of 53758  
recommendations, the board shall notify the board of county 53759  
commissioners of any county, the board of township trustees of any 53760  
township, the board of trustees of any joint ambulance district, 53761  
or the board of trustees of any joint emergency medical services 53762  
district in which there exist ambulance service organizations, air 53763  
medical organizations, or emergency medical service organizations 53764  
of any board recommendations for the operation of such 53765  
organizations. The recommendations shall include, but not be 53766  
limited to: 53767

(A) The definition and classification of ambulances and 53768  
medical aircraft; 53769

(B) The design, equipment, and supplies for ambulances and 53770  
medical aircraft, including special equipment, supplies, training, 53771  
and staffing required to assist pediatric and geriatric emergency 53772  
victims; 53773

(C) The minimum number and type of personnel for the 53774  
operation of ambulances and medical aircraft; 53775

(D) The communication systems necessary for the operation of 53776  
ambulances and medical aircraft; 53777

(E) Reports to be made by persons holding certificates of 53778

accreditation or approval issued under section 4765.17 of the Revised Code and certificates to practice issued under section 4765.30 of the Revised Code to ascertain compliance with this chapter and the rules and recommendations adopted thereunder and to ascertain the quantity and quality of ambulance service organizations, air medical organizations, and emergency medical service organizations throughout the state.

**Sec. 4765.10.** (A) The state board of emergency medical, fire, and transportation services shall do all of the following:

(1) Administer and enforce the provisions of this chapter and the rules adopted under it;

(2) Approve, in accordance with procedures established in rules adopted under section 4765.11 of the Revised Code, examinations that demonstrate competence to have a certificate to practice renewed without completing a continuing education program;

(3) Advise applicants for state or federal emergency medical services funds, review and comment on applications for these funds, and approve the use of all state and federal funds designated solely for emergency medical service programs unless federal law requires another state agency to approve the use of all such federal funds;

(4) Serve as a statewide clearinghouse for discussion, inquiry, and complaints concerning emergency medical services;

(5) Make recommendations to the general assembly on legislation to improve the delivery of emergency medical services;

(6) Maintain a toll-free long distance telephone number through which it shall respond to questions about emergency medical services;

(7) Work with appropriate state offices in coordinating the

training of firefighters and emergency medical service personnel. 53809  
Other state offices that are involved in the training of 53810  
firefighters or emergency medical service personnel shall 53811  
cooperate with the board and its committees and subcommittees to 53812  
achieve this goal. 53813

(8) Provide a liaison to the state emergency operation center 53814  
during those periods when a disaster, as defined in section 53815  
5502.21 of the Revised Code, has occurred in this state and the 53816  
governor has declared an emergency as defined in that section. 53817

(B) The board may do any of the following: 53818

(1) Investigate complaints concerning emergency medical 53819  
services and emergency medical service organizations as it 53820  
determines necessary; 53821

(2) Enter into reciprocal agreements with other states that 53822  
have standards for accreditation of emergency medical services 53823  
training programs and for certification of first responders, 53824  
EMTs-basic, EMTs-I, paramedics, firefighters, or fire safety 53825  
inspectors that are substantially similar to those established 53826  
under this chapter and the rules adopted under it; 53827

(3) Establish a statewide public information system and 53828  
public education programs regarding emergency medical services; 53829

(4) Establish an injury prevention program. 53830

**Sec. 4765.101.** (A) The state board of emergency medical, 53831  
fire, and transportation services shall investigate any allegation 53832  
that a person has violated this chapter or a rule adopted under 53833  
it. 53834

Any person may submit to the board a written complaint 53835  
regarding an alleged violation of this chapter or a rule adopted 53836  
under it. In the absence of fraud or bad faith, no person 53837  
submitting a complaint to the board or testifying in an 53838

adjudication hearing conducted in accordance with Chapter 119. of 53839  
the Revised Code with regard to such an alleged violation shall be 53840  
liable to any person in damages in a civil action as a result of 53841  
submitting the complaint or providing testimony. 53842

(B) In investigating an allegation, the board may do any of 53843  
the following: 53844

(1) Administer oaths; 53845

(2) Order the taking of depositions; 53846

(3) Issue subpoenas; 53847

(4) Compel the attendance of witnesses and production of 53848  
books, accounts, papers, records, documents, and testimony. 53849

(C) A subpoena for patient record information shall not be 53850  
issued without consultation with the attorney general's office and 53851  
approval of the executive director of the board. Before issuance 53852  
of a subpoena for patient record information, the executive 53853  
director shall determine whether there is probable cause to 53854  
believe that the complaint filed alleges a violation of this 53855  
chapter or any rule adopted under it and that the records sought 53856  
are relevant to the alleged violation and material to the 53857  
investigation. The subpoena may apply only to records that cover a 53858  
reasonable period of time surrounding the alleged violation. 53859

(D) On failure to comply with any subpoena issued by the 53860  
board and after reasonable notice to the person being subpoenaed, 53861  
the board may move, pursuant to the Rules of Civil Procedure, for 53862  
an order compelling the production of persons or records. 53863

(E) A subpoena issued by the board may be served by a 53864  
sheriff, the sheriff's deputy, or an investigator for the division 53865  
of emergency medical services of the department of public safety. 53866  
Service of a subpoena issued by the board may be made by 53867  
delivering a copy of the subpoena to the person named in it, 53868

reading it to the person, or leaving it at the person's usual 53869  
place of residence. When the person being served is an individual 53870  
authorized by this chapter to practice emergency medical services, 53871  
service of the subpoena may be made by certified mail, restricted 53872  
delivery, return receipt requested, and the subpoena shall be 53873  
deemed served on the date delivery is made or on the date that the 53874  
person refuses to accept delivery. 53875

**Sec. 4765.102.** (A) As used in this section, "licensing 53876  
agency" means any entity that has the authority pursuant to Title 53877  
XLVII of the Revised Code to issue a license, and any other agency 53878  
of this or another state, other than the Ohio supreme court, that 53879  
has the authority to issue a license that authorizes an individual 53880  
to engage in an occupation or profession. "Licensing agency" 53881  
includes an administrative officer that has authority to issue a 53882  
license that authorizes an individual to engage in an occupation 53883  
or profession. 53884

(B) Except as provided in divisions (C) and (D) of this 53885  
section and section 4765.111 of the Revised Code, all information 53886  
the state board of emergency medical, fire, and transportation 53887  
services receives pursuant to an investigation, including 53888  
information regarding an alleged violation of this chapter or 53889  
rules adopted under it or a complaint submitted under division (A) 53890  
of section 4765.101 of the Revised Code, is confidential, and is 53891  
not subject to discovery in any civil action, during the course of 53892  
the investigation and any adjudication proceedings that result 53893  
from the investigation. Upon completion of the investigation and 53894  
any resulting adjudication proceedings, the information is a 53895  
matter of public record for purposes of section 149.43 of the 53896  
Revised Code. 53897

(C) The board may release information otherwise made 53898  
confidential by division (B) of this section to law enforcement 53899

officers or licensing agencies of this or another state that are 53900  
prosecuting, adjudicating, or investigating the holder of a 53901  
certificate issued under this chapter or a person who allegedly 53902  
engaged in the unauthorized provision of emergency medical 53903  
services. 53904

A law enforcement officer or licensing agency with 53905  
information disclosed by the board under this division shall not 53906  
divulge the information other than for the purpose of an 53907  
adjudication by a court or licensing agency to which the subject 53908  
of the adjudication is a party. 53909

(D) If an investigation conducted under section 4765.101 of 53910  
the Revised Code requires a review of patient records, the 53911  
investigation and proceedings related to it shall be conducted in 53912  
such a manner as to protect patient confidentiality. The board 53913  
shall not make public the name or any other identifying 53914  
information about a patient unless proper consent is given in 53915  
accordance with rules adopted by the board. If the patient is less 53916  
than eighteen years of age, the board shall obtain consent from 53917  
the patient's parent, guardian, or custodian. 53918

**Sec. 4765.11.** (A) The state board of emergency medical, fire, 53919  
and transportation services shall adopt, and may amend and 53920  
rescind, rules in accordance with Chapter 119. of the Revised Code 53921  
and division (C) of this section that establish all of the 53922  
following: 53923

(1) Procedures for its governance and the control of its 53924  
actions and business affairs; 53925

(2) Standards for the performance of emergency medical 53926  
services by first responders, emergency medical technicians-basic, 53927  
emergency medical technicians-intermediate, and emergency medical 53928  
technicians-paramedic; 53929

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| (3) Application fees for certificates of accreditation,            | 53930 |
| certificates of approval, certificates to teach, and certificates  | 53931 |
| to practice, which shall be deposited into the trauma and          | 53932 |
| emergency medical services fund created in section 4513.263 of the | 53933 |
| Revised Code;  | 53934 |
| (4) Criteria for determining when the application or renewal       | 53935 |
| fee for a certificate to practice may be waived because an         | 53936 |
| applicant cannot afford to pay the fee;                            | 53937 |
| (5) Procedures for issuance and renewal of certificates of         | 53938 |
| accreditation, certificates of approval, certificates to teach,    | 53939 |
| and certificates to practice, including any procedures necessary   | 53940 |
| to ensure that adequate notice of renewal is provided in           | 53941 |
| accordance with division (D) of section 4765.30 of the Revised     | 53942 |
| Code;  | 53943 |
| (6) Procedures for suspending or revoking certificates of          | 53944 |
| accreditation, certificates of approval, certificates to teach,    | 53945 |
| and certificates to practice;                                      | 53946 |
| (7) Grounds for suspension or revocation of a certificate to       | 53947 |
| practice issued under section 4765.30 of the Revised Code and for  | 53948 |
| taking any other disciplinary action against a first responder,    | 53949 |
| EMT-basic, EMT-I, or paramedic;                                    | 53950 |
| (8) Procedures for taking disciplinary action against a first      | 53951 |
| responder, EMT-basic, EMT-I, or paramedic;                         | 53952 |
| (9) Standards for certificates of accreditation and                | 53953 |
| certificates of approval;  | 53954 |
| (10) Qualifications for certificates to teach;                     | 53955 |
| (11) Requirements for a certificate to practice;                   | 53956 |
| (12) The curricula, number of hours of instruction and             | 53957 |
| training, and instructional materials to be used in adult and      | 53958 |
| pediatric emergency medical services training programs and adult   | 53959 |

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| and pediatric emergency medical services continuing education programs;   | 53960<br>53961   |
| (13) Procedures for conducting courses in recognizing symptoms of life-threatening allergic reactions and in calculating proper dosage levels and administering injections of epinephrine to adult and pediatric patients who suffer life-threatening allergic reactions;   | 53962<br>53963<br>53964<br>53965<br>53966                            |
| (14) Examinations for certificates to practice;   | 53967  |
| (15) Procedures for administering examinations for certificates to practice;  | 53968<br>53969   |
| (16) Procedures for approving examinations that demonstrate competence to have a certificate to practice renewed without completing an emergency medical services continuing education program;   | 53970<br>53971<br>53972<br>53973                                     |
| (17) Procedures for granting extensions and exemptions of emergency medical services continuing education requirements;   | 53974<br>53975   |
| (18) Procedures for approving the additional emergency medical services first responders are authorized by division (C) of section 4765.35 of the Revised Code to perform, EMTs-basic are authorized by division (C) of section 4765.37 of the Revised Code to perform, EMTs-I are authorized by division (B)(5) of section 4765.38 of the Revised Code to perform, and paramedics are authorized by division (B)(6) of section 4765.39 of the Revised Code to perform; | 53976<br>53977<br>53978<br>53979<br>53980<br>53981<br>53982<br>53983 |
| (19) Standards and procedures for implementing the requirements of section 4765.06 of the Revised Code, including designations of the persons who are required to report information to the board and the types of information to be reported;  | 53984<br>53985<br>53986<br>53987                                     |
| (20) Procedures for administering the emergency medical services grant program established under section 4765.07 of the   | 53988<br>53989   |

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| Revised Code;  | 53990  |
| (21) Procedures consistent with Chapter 119. of the Revised Code for appealing decisions of the board;   | 53991<br>53992                                     |
| (22) Minimum qualifications and peer review and quality improvement requirements for persons who provide medical direction to emergency medical service personnel;   | 53993<br>53994<br>53995                            |
| (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;   | 53996<br>53997<br>53998<br>53999                   |
| (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;  | 54000<br>54001<br>54002<br>54003                   |
| (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, <u>fire, and transportation</u> services under section 4765.55 of the Revised Code that establish a common expiration date for all certificates. | 54004<br>54005<br>54006<br>54007<br>54008<br>54009 |
| (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:   | 54010<br>54011<br>54012                            |
| (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;   | 54013<br>54014<br>54015                            |
| (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;   | 54016<br>54017<br>54018                            |
| (3) Requirements that a person must meet to receive a  | 54019  |

certificate to practice as a first responder pursuant to division 54020  
(A)(2) of section 4765.30 of the Revised Code; 54021

(4) Any other rules necessary to implement this chapter. 54022

(C) In developing and administering rules adopted under this 54023  
chapter, the state board of emergency medical, fire, and 54024  
transportation services shall consult with regional directors and 54025  
regional physician advisory boards created by section 4765.05 of 54026  
the Revised Code and emphasize the special needs of pediatric and 54027  
geriatric patients. 54028

(D) Except as otherwise provided in this division, before 54029  
adopting, amending, or rescinding any rule under this chapter, the 54030  
board shall submit the proposed rule to the director of public 54031  
safety for review. The director may review the proposed rule for 54032  
not more than sixty days after the date it is submitted. If, 54033  
within this sixty-day period, the director approves the proposed 54034  
rule or does not notify the board that the rule is disapproved, 54035  
the board may adopt, amend, or rescind the rule as proposed. If, 54036  
within this sixty-day period, the director notifies the board that 54037  
the proposed rule is disapproved, the board shall not adopt, 54038  
amend, or rescind the rule as proposed unless at least twelve 54039  
members of the board vote to adopt, amend, or rescind it. 54040

This division does not apply to an emergency rule adopted in 54041  
accordance with section 119.03 of the Revised Code. 54042

**Sec. 4765.111.** Except as provided in this section or sections 54043  
4765.112 to 4765.116 of the Revised Code, the state board of 54044  
emergency medical, fire, and transportation services shall conduct 54045  
disciplinary proceedings regarding the holder of a certificate 54046  
issued under this chapter in accordance with rules adopted by the 54047  
board under section 4765.11 of the Revised Code. 54048

The board and a holder of a certificate are the parties to a 54049

hearing conducted under this chapter. Either party may submit a 54050  
written request to the other party for a list of witnesses and 54051  
copies of documents intended to be introduced at the hearing. The 54052  
request shall be in writing and shall be served not less than 54053  
thirty-seven days prior to the commencement of the hearing, unless 54054  
the hearing officer or presiding board member grants an extension 54055  
of time to make the request. Not later than thirty days before the 54056  
hearing, the responding party shall provide the requested list of 54057  
witnesses and copies of documents to the requesting party, unless 54058  
the hearing officer or presiding board member grants an extension 54059  
of time to provide the list and copies. 54060

Failure to timely provide a list or copies requested in 54061  
accordance with this section shall result in exclusion from the 54062  
hearing of the witnesses, testimony, or documents. 54063

**Sec. 4765.112.** (A) The state board of emergency medical, 54064  
fire, and transportation services, by an affirmative vote of the 54065  
majority of its members, may suspend without a prior hearing a 54066  
certificate to practice issued under this chapter if the board 54067  
determines that there is clear and convincing evidence that 54068  
continued practice by the certificate holder presents a danger of 54069  
immediate and serious harm to the public and that the certificate 54070  
holder has done any of the following: 54071

(1) Furnished false, fraudulent, or misleading information to 54072  
the board; 54073

(2) Engaged in activities that exceed those permitted by the 54074  
individual's certificate; 54075

(3) In a court of this or any other state or federal court 54076  
been convicted of, pleaded guilty to, or been the subject of a 54077  
judicial finding of guilt of, a judicial finding of guilt 54078  
resulting from a plea of no contest to, or a judicial finding of 54079  
eligibility for intervention in lieu of conviction for, a felony 54080

or for a misdemeanor committed in the course of practice or 54081  
involving gross immorality or moral turpitude. 54082

(B) Immediately following the decision to impose a summary 54083  
suspension, the board, in accordance with section 119.07 of the 54084  
Revised Code, shall issue a written order of suspension, cause it 54085  
to be delivered to the certificate holder, and notify the 54086  
certificate holder of the opportunity for a hearing. If timely 54087  
requested by the certificate holder, a hearing shall be conducted 54088  
in accordance with section 4765.115 of the Revised Code. 54089

**Sec. 4765.113.** If the state board of emergency medical, fire, 54090  
and transportation services imposes a suspension on the basis of a 54091  
conviction, judicial finding, or plea as described in division 54092  
(A)(3) of section 4765.112 of the Revised Code that is overturned 54093  
on appeal, the certificate holder, on exhaustion of the criminal 54094  
appeal process, may file with the board a petition for 54095  
reconsideration of the suspension along with appropriate court 54096  
documents. On receipt of the petition and documents, the board 54097  
shall reinstate the certificate holder's certificate to practice. 54098

**Sec. 4765.114.** (A) A certificate to practice emergency 54099  
medical services issued under this chapter is automatically 54100  
suspended on the certificate holder's conviction of, plea of 54101  
guilty to, or judicial finding of guilt of any of the following: 54102  
aggravated murder, murder, voluntary manslaughter, felonious 54103  
assault, kidnapping, rape, sexual battery, gross sexual 54104  
imposition, aggravated arson, aggravated burglary, aggravated 54105  
robbery, or a substantially equivalent offense committed in this 54106  
or another jurisdiction. Continued practice after the suspension 54107  
is practicing without a certificate. 54108

(B) If the state board of emergency medical, fire, and 54109  
transportation services has knowledge that an automatic suspension 54110

has occurred, it shall notify, in accordance with section 119.07 54111  
of the Revised Code, the certificate holder of the suspension and 54112  
of the opportunity for a hearing. If timely requested by the 54113  
certificate holder, a hearing shall be conducted in accordance 54114  
with section 4765.115 of the Revised Code. 54115

**Sec. 4765.115.** (A) A suspension order issued under section 54116  
4765.112 or automatic suspension under section 4765.114 of the 54117  
Revised Code is not subject to suspension by a court prior to a 54118  
hearing under this section or during the pendency of any appeal 54119  
filed under section 119.12 of the Revised Code. 54120

(B) A suspension order issued under section 4765.112 or 54121  
automatic suspension under section 4765.114 of the Revised Code 54122  
remains in effect, unless reversed by the state board of emergency 54123  
medical, fire, and transportation services, until a final 54124  
adjudication order issued by the board pursuant to this section 54125  
becomes effective. 54126

(C) Hearings requested pursuant to section 4765.112 or 54127  
4765.114 of the Revised Code shall be conducted under this section 54128  
in accordance with Chapter 119. of the Revised Code. 54129

(D) A hearing under this section shall be held not later than 54130  
forty-five days but not earlier than forty days after the 54131  
certificate holder requests it, unless another date is agreed to 54132  
by the certificate holder and the board. 54133

(E) After completion of an adjudication hearing, the board 54134  
may adopt, by an affirmative vote of the majority of its members, 54135  
a final adjudication order that imposes any of the following 54136  
sanctions: 54137

(1) Suspension of the holder's certificate to practice; 54138

(2) Revocation of the holder's certificate to practice; 54139

(3) Issuance of a written reprimand; 54140

(4) A refusal to renew or a limitation on the holder's certificate to practice. 54141  
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The board shall issue its final adjudication order not later than forty-five days after completion of an adjudication hearing. 54143  
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If the board does not issue a final order within that time period, 54145  
the suspension order is void, but any final adjudication order 54146  
subsequently issued is not affected. 54147

(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. 54148  
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(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. 54154  
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**Sec. 4765.116.** If a certificate holder subject to a suspension order issued by the state board of emergency medical, fire, and transportation 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: 54161  
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(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 final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division 54167  
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54169  
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(E) of section 4765.115 of the Revised Code. 54172

(B) In the case of a certificate holder subject to an 54173  
automatic suspension order, the board may adopt, by an affirmative 54174  
vote of a majority of its members, a final order that permanently 54175  
revokes the holder's certificate to practice. 54176

**Sec. 4765.12.** (A) Not later than two years after ~~the~~ 54177  
~~effective date of this section~~ November 3, 2000, the state board 54178  
of emergency medical and transportation services shall develop and 54179  
distribute guidelines for the care of trauma victims by emergency 54180  
medical service personnel and for the conduct of peer review and 54181  
quality assurance programs by emergency medical service 54182  
organizations. The guidelines shall be consistent with the state 54183  
trauma triage protocols adopted in rules under sections 4765.11 54184  
and 4765.40 of the Revised Code and shall place emphasis on the 54185  
special needs of pediatric and geriatric trauma victims. In 54186  
developing the guidelines, the board shall consult with entities 54187  
with interests in trauma and emergency medical services and shall 54188  
consider any relevant guidelines adopted by national 54189  
organizations, including the American college of surgeons, 54190  
American college of emergency physicians, and American academy of 54191  
pediatrics. The board shall distribute the guidelines, and 54192  
amendments to the guidelines, to each emergency medical service 54193  
organization, regional director, regional physician advisory 54194  
board, certified emergency medical service instructor, and person 54195  
who regularly provides medical direction to emergency medical 54196  
service personnel in this state. 54197

(B) Not later than three years after ~~the effective date of~~ 54198  
~~this section~~ November 3, 2000, each emergency medical service 54199  
organization in this state shall implement ongoing peer review and 54200  
quality assurance programs designed to improve the availability 54201  
and quality of the emergency medical services it provides. The 54202

form and content of the programs shall be determined by each 54203  
emergency medical service organization. In implementing the 54204  
programs, each emergency medical service organization shall 54205  
consider how to improve its ability to provide effective trauma 54206  
care, particularly for pediatric and geriatric trauma victims, and 54207  
shall take into account the trauma care guidelines developed by 54208  
the state board of emergency medical, fire, and transportation 54209  
services under this section. 54210

Information generated solely for use in a peer review or 54211  
quality assurance program conducted on behalf of an emergency 54212  
medical service organization is not a public record under section 54213  
149.43 of the Revised Code. Such information, and any discussion 54214  
conducted in the course of a peer review or quality assurance 54215  
program conducted on behalf of an emergency medical service 54216  
organization, is not subject to discovery in a civil action and 54217  
shall not be introduced into evidence in a civil action against 54218  
the emergency medical service organization on whose behalf the 54219  
information was generated or the discussion occurred. 54220

No emergency medical service organization on whose behalf a 54221  
peer review or quality assurance program is conducted, and no 54222  
person who conducts such a program, because of performing such 54223  
functions, shall be liable in a civil action for betrayal of 54224  
professional confidence or otherwise in the absence of willful or 54225  
wanton misconduct. 54226

**Sec. 4765.15.** A person seeking to operate an emergency 54227  
medical services training program shall submit a completed 54228  
application for accreditation to the state board of emergency 54229  
medical, fire, and transportation services on a form the board 54230  
shall prescribe and furnish. The application shall be accompanied 54231  
by the appropriate application fee established in rules adopted 54232  
under section 4765.11 of the Revised Code. 54233

A person seeking to operate an emergency medical services continuing education program shall submit a completed application for approval to the board on a form the board shall prescribe and furnish. The application shall be accompanied by the appropriate application fee established in rules adopted under section 4765.11 of the Revised Code.

The board shall administer the accreditation and approval processes pursuant to rules adopted under section 4765.11 of the Revised Code. In administering these processes, the board may authorize other persons to evaluate applications for accreditation or approval and may accept the recommendations made by those persons.

The board may cause an investigation to be made into the accuracy of the information submitted in any application for accreditation or approval. If an investigation indicates that false, misleading, or incomplete information has been submitted to the board in connection with any application for accreditation or approval, the board shall conduct a hearing on the matter in accordance with Chapter 119. of the Revised Code.

**Sec. 4765.16.** (A) All courses offered through an emergency medical services training program or an emergency medical services continuing education program, other than ambulance driving, shall be developed under the direction of a physician who specializes in emergency medicine. Each course that deals with trauma care shall be developed in consultation with a physician who specializes in trauma surgery. Except as specified by the state board of emergency medical, fire, and transportation services pursuant to rules adopted under section 4765.11 of the Revised Code, each course offered through a training program or continuing education program shall be taught by a person who holds the appropriate certificate to teach issued under section 4765.23 of the Revised

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| Code.   | 54265   |
| (B) A training program for first responders shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include courses in both of the following areas for at least the number of hours established by the board's rules:   | 54266<br>54267<br>54268<br>54269<br>54270   |
| (1) Emergency victim care;  | 54271   |
| (2) Reading and interpreting a trauma victim's vital signs.   | 54272   |
| (C) A training program for emergency medical technicians-basic shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include courses in each of the following areas for at least the number of hours established by the board's rules:  | 54273<br>54274<br>54275<br>54276<br>54277   |
| (1) Emergency victim care;  | 54278   |
| (2) Reading and interpreting a trauma victim's vital signs;   | 54279   |
| (3) Triage protocols for adult and pediatric trauma victims;  | 54280   |
| (4) In-hospital training;   | 54281   |
| (5) Clinical training;  | 54282   |
| (6) Training as an ambulance driver.  | 54283   |
| Each operator of a training program for emergency medical technicians-basic shall allow any pupil in the twelfth grade in a secondary school who is at least seventeen years old and who otherwise meets the requirements for admission into such a training program to be admitted to and complete the program and, as part of the training, to ride in an ambulance with emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic. Each emergency medical service organization shall allow pupils participating in training programs to ride in an ambulance with emergency medical technicians-basic, advanced | 54284<br>54285<br>54286<br>54287<br>54288<br>54289<br>54290<br>54291<br>54292<br>54293<br>54294 |

emergency medical technicians-intermediate, and emergency medical technicians-paramedic. 54295  
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(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: 54297  
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54299  
54300  
54301  
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54303

(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; 54304  
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54306  
54307  
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54309

(2) Venous access procedures; 54310

(3) Cardiac monitoring and electrical interventions to support or correct the cardiac function. 54311  
54312

(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: 54313  
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54315  
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54318  
54319

(1) Medical terminology; 54320

(2) Venous access procedures; 54321

(3) Airway procedures; 54322

(4) Patient assessment and triage; 54323

(5) Acute cardiac care, including administration of 54324

parenteral injections, electrical interventions, and other 54325  
emergency medical services; 54326

(6) Emergency and trauma victim care beyond that required 54327  
under division (C) of this section; 54328

(7) Clinical training beyond that required under division (C) 54329  
of this section. 54330

(F) A continuing education program for first responders, 54331  
EMTs-basic, EMTs-I, or paramedics shall meet the standards 54332  
established in rules adopted by the board under section 4765.11 of 54333  
the Revised Code. A continuing education program shall include 54334  
instruction and training in subjects established by the board's 54335  
rules for at least the number of hours established by the board's 54336  
rules. 54337

**Sec. 4765.17.** (A) The state board of emergency medical, fire, 54338  
and transportation services shall issue the appropriate 54339  
certificate of accreditation or certificate of approval to an 54340  
applicant who is of good reputation and meets the requirements of 54341  
section 4765.16 of the Revised Code. The board shall grant or deny 54342  
a certificate of accreditation or certificate of approval within 54343  
one hundred twenty days of receipt of the application. The board 54344  
may issue or renew a certificate of accreditation or certificate 54345  
of approval on a provisional basis to an applicant who is of good 54346  
reputation and is in substantial compliance with the requirements 54347  
of section 4765.16 of the Revised Code. The board shall inform an 54348  
applicant receiving such a certificate of the conditions that must 54349  
be met to complete compliance with section 4765.16 of the Revised 54350  
Code. 54351

(B) Except as provided in division (C) of this section, a 54352  
certificate of accreditation or certificate of approval is valid 54353  
for up to five years and may be renewed by the board pursuant to 54354  
procedures and standards established in rules adopted under 54355

section 4765.11 of the Revised Code. An application for renewal 54356  
shall be accompanied by the appropriate renewal fee established in 54357  
rules adopted under section 4765.11 of the Revised Code. 54358

(C) A certificate of accreditation or certificate of approval 54359  
issued on a provisional basis is valid for the length of time 54360  
established by the board. If the board finds that the holder of 54361  
such a certificate has met the conditions it specifies under 54362  
division (A) of this section, the board shall issue the 54363  
appropriate certificate of accreditation or certificate of 54364  
approval. 54365

(D) A certificate of accreditation is valid only for the 54366  
emergency medical services training program or programs for which 54367  
it is issued. The holder of a certificate of accreditation may 54368  
apply to operate additional training programs in accordance with 54369  
rules adopted by the board under section 4765.11 of the Revised 54370  
Code. Any additional training programs shall expire on the 54371  
expiration date of the applicant's current certificate. A 54372  
certificate of approval is valid only for the emergency medical 54373  
services continuing education program for which it is issued. 54374  
Neither is transferable. 54375

(E) The holder of a certificate of accreditation or a 54376  
certificate of approval may offer courses at more than one 54377  
location in accordance with rules adopted under section 4765.11 of 54378  
the Revised Code. 54379

**Sec. 4765.18.** The state board of emergency medical, fire, and 54380  
transportation services may suspend or revoke a certificate of 54381  
accreditation or a certificate of approval issued under section 54382  
4765.17 of the Revised Code for any of the following reasons: 54383

(A) Violation of this chapter or any rule adopted under it; 54384

(B) Furnishing of false, misleading, or incomplete 54385

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|--|---|
| information to the board;  | 54386   |
| (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;   | 54387<br>54388<br>54389<br>54390                            |
| (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;  | 54391<br>54392<br>54393<br>54394<br>54395                   |
| (E) Violation of any commitment made in an application for a certificate of accreditation or certificate of approval;  | 54396<br>54397  |
| (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; | 54398<br>54399<br>54400<br>54401<br>54402<br>54403<br>54404 |
| (G) Failure to maintain in a safe and sanitary condition premises and equipment used in conducting courses of study;   | 54405<br>54406  |
| (H) Failure to maintain financial resources adequate for the satisfactory conduct of courses of study or to retain a sufficient number of certified instructors;   | 54407<br>54408<br>54409                                     |
| (I) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin.   | 54410<br>54411  |
| <b>Sec. 4765.22.</b> A person seeking a certificate to teach in an emergency medical services training program or an emergency medical services continuing education program shall submit a completed application for certification to the state board of  | 54412<br>54413<br>54414<br>54415                            |

emergency medical, fire, and transportation services on a form the 54416  
board shall prescribe and furnish. The application shall be 54417  
accompanied by the appropriate application fee established in 54418  
rules adopted under section 4765.11 of the Revised Code. 54419

**Sec. 4765.23.** The state board of emergency medical, fire, and 54420  
transportation services shall issue a certificate to teach in an 54421  
emergency medical services training program or an emergency 54422  
medical services continuing education program to any applicant who 54423  
it determines meets the qualifications established in rules 54424  
adopted under section 4765.11 of the Revised Code. The certificate 54425  
shall indicate each type of instruction and training the 54426  
certificate holder may teach under the certificate. 54427

A certificate to teach shall have a certification cycle 54428  
established by the board and may be renewed by the board pursuant 54429  
to rules adopted under section 4765.11 of the Revised Code. An 54430  
application for renewal shall be accompanied by the appropriate 54431  
renewal fee established in rules adopted under section 4765.11 of 54432  
the Revised Code. 54433

The board may suspend or revoke a certificate to teach 54434  
pursuant to rules adopted under section 4765.11 of the Revised 54435  
Code. 54436

**Sec. 4765.28.** A person seeking a certificate to practice as a 54437  
first responder, emergency medical technician-basic, emergency 54438  
medical technician-intermediate, or emergency medical 54439  
technician-paramedic shall submit a completed application for 54440  
certification to the state board of emergency medical, fire, and 54441  
transportation services on a form the board shall prescribe and 54442  
furnish. Except as provided in division (B) of section 4765.29 of 54443  
the Revised Code, the application shall include evidence that the 54444  
applicant received the appropriate certificate of completion 54445

pursuant to section 4765.24 of the Revised Code. The application 54446  
shall be accompanied by the appropriate application fee 54447  
established in rules adopted under section 4765.11 of the Revised 54448  
Code, unless the board waives the fee on determining pursuant to 54449  
those rules that the applicant cannot afford to pay the fee. 54450

**Sec. 4765.29.** (A) The state board of emergency medical, fire, 54451  
and transportation services shall provide for the examination of 54452  
applicants for certification to practice as first responders, 54453  
emergency medical technicians-basic, emergency medical 54454  
technicians-intermediate, and emergency medical 54455  
technicians-paramedic. The examinations shall be established by 54456  
the board in rules adopted under section 4765.11 of the Revised 54457  
Code. The board may administer the examinations or contract with 54458  
other persons to administer the examinations. In either case, the 54459  
examinations shall be administered pursuant to procedures 54460  
established in rules adopted under section 4765.11 of the Revised 54461  
Code and shall be offered at various locations in the state 54462  
selected by the board. 54463

Except as provided in division (B) of this section, an 54464  
applicant shall not be permitted to take an examination for the 54465  
same certificate to practice more than three times since last 54466  
receiving the certificate of completion pursuant to section 54467  
4765.24 of the Revised Code that qualifies the applicant to take 54468  
the examination unless the applicant receives another certificate 54469  
of completion that qualifies the applicant to take the 54470  
examination. 54471

(B) On request of an applicant who fails three examinations 54472  
for the same certificate to practice, the board may direct the 54473  
applicant to complete a specific portion of an accredited 54474  
emergency medical services training program. If the applicant 54475  
provides satisfactory proof to the board that the applicant has 54476

successfully completed that portion of the program, the applicant 54477  
shall be permitted to take the examination. 54478

**Sec. 4765.30.** (A)(1) The state board of emergency medical, 54479  
fire, and transportation services shall issue a certificate to 54480  
practice as a first responder to an applicant who meets all of the 54481  
following conditions: 54482

(a) Except as provided in division (A)(2) of this section, is 54483  
a volunteer for a nonprofit emergency medical service organization 54484  
or a nonprofit fire department; 54485

(b) Holds the appropriate certificate of completion issued in 54486  
accordance with section 4765.24 of the Revised Code; 54487

(c) Passes the appropriate examination conducted under 54488  
section 4765.29 of the Revised Code; 54489

(d) Is not in violation of any provision of this chapter or 54490  
the rules adopted under it; 54491

(e) Meets any other certification requirements established in 54492  
rules adopted under section 4765.11 of the Revised Code. 54493

(2) The board may waive the requirement to be a volunteer for 54494  
a nonprofit entity if the applicant meets other requirements 54495  
established in rules adopted under division (B)(3) of section 54496  
4765.11 of the Revised Code relative to a person's eligibility to 54497  
practice as a first responder. 54498

(B) The state board of emergency medical, fire, and 54499  
transportation services shall issue a certificate to practice as 54500  
an emergency medical technician-basic to an applicant who meets 54501  
all of the following conditions: 54502

(1) Holds a certificate of completion in emergency medical 54503  
services training-basic issued in accordance with section 4765.24 54504  
of the Revised Code; 54505

|  |  |
|--|--|
| (2) Passes the examination for emergency medical technicians-basic conducted under section 4765.29 of the Revised Code;  | 54506<br>54507<br>54508                            |
| (3) Is not in violation of any provision of this chapter or the rules adopted under it;  | 54509<br>54510                                     |
| (4) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.   | 54511<br>54512                                     |
| (C) The state board of emergency medical, <u>fire, and transportation</u> services shall issue a certificate to practice as an emergency medical technician-intermediate or emergency medical technician-paramedic to an applicant who meets all of the following conditions:  | 54513<br>54514<br>54515<br>54516<br>54517          |
| (1) Holds a certificate to practice as an emergency medical technician-basic;  | 54518<br>54519                                     |
| (2) Holds the appropriate certificate of completion issued in accordance with section 4765.24 of the Revised Code;   | 54520<br>54521                                     |
| (3) Passes the appropriate examination conducted under section 4765.29 of the Revised Code;  | 54522<br>54523                                     |
| (4) Is not in violation of any provision of this chapter or the rules adopted under it;  | 54524<br>54525                                     |
| (5) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.   | 54526<br>54527                                     |
| (D) A certificate to practice shall have a certification cycle established by the board and may be renewed by the board pursuant to rules adopted under section 4765.11 of the Revised Code. Not later than sixty days prior to the expiration date of an individual's certificate to practice, the board shall notify the individual of the scheduled expiration. | 54528<br>54529<br>54530<br>54531<br>54532<br>54533 |
| An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section  | 54534<br>54535                                     |

4765.11 of the Revised Code, unless the board waives the fee on 54536  
determining pursuant to those rules that the applicant cannot 54537  
afford to pay the fee. Except as provided in division (B) of 54538  
section 4765.31 of the Revised Code, the application shall include 54539  
evidence of either of the following: 54540

(1) That the applicant received a certificate of completion 54541  
from the appropriate emergency medical services continuing 54542  
education program pursuant to section 4765.24 of the Revised Code; 54543

(2) That the applicant has successfully passed an examination 54544  
that demonstrates the competence to have a certificate renewed 54545  
without completing an emergency medical services continuing 54546  
education program. The board shall approve such examinations in 54547  
accordance with rules adopted under section 4765.11 of the Revised 54548  
Code. 54549

(E) The board shall not require an applicant for renewal of a 54550  
certificate to practice to take an examination as a condition of 54551  
renewing the certificate. This division does not preclude the use 54552  
of examinations by operators of approved emergency medical 54553  
services continuing education programs as a condition for issuance 54554  
of a certificate of completion in emergency medical services 54555  
continuing education. 54556

**Sec. 4765.31.** (A) Except as provided in division (B) of this 54557  
section, a first responder, emergency medical technician-basic, 54558  
emergency medical technician-intermediate, and emergency medical 54559  
technician-paramedic shall complete an emergency medical services 54560  
continuing education program or pass an examination approved by 54561  
the state board of emergency medical, fire, and transportation 54562  
services under division (A) of section 4765.10 of the Revised Code 54563  
prior to the expiration of the individual's certificate to 54564  
practice. Completion of the continuing education requirements for 54565  
EMTs-I or paramedics satisfies the continuing education 54566

requirements for renewing the certificate to practice as an 54567  
EMT-basic held by an EMT-I or paramedic. 54568

(B)(1) An applicant for renewal of a certificate to practice 54569  
may apply to the board, in writing, for an extension to complete 54570  
the continuing education requirements established under division 54571  
(A) of this section. The board may grant such an extension and 54572  
determine the length of the extension. The board may authorize the 54573  
applicant to continue to practice during the extension as if the 54574  
certificate to practice had not expired. 54575

(2) An applicant for renewal of a certificate to practice may 54576  
apply to the board, in writing, for an exemption from the 54577  
continuing education requirements established under division (A) 54578  
of this section. The board may exempt an individual or a group of 54579  
individuals from all or any part of the continuing education 54580  
requirements due to active military service, unusual circumstance, 54581  
emergency, special hardship, or any other cause considered 54582  
reasonable by the board. 54583

(C) Decisions of whether to grant an extension or exemption 54584  
under division (B) of this section shall be made by the board 54585  
pursuant to procedures established in rules adopted under section 54586  
4765.11 of the Revised Code. 54587

**Sec. 4765.32.** A current, valid certificate of accreditation 54588  
issued under the provisions of former section 3303.11 or 3303.23 54589  
of the Revised Code shall remain valid until one year after the 54590  
expiration date of the certificate as determined by the provisions 54591  
of those sections and shall confer the same privileges and impose 54592  
the same responsibilities and requirements as a certificate of 54593  
accreditation issued by the state board of emergency medical, 54594  
fire, and transportation services under section 4765.17 of the 54595  
Revised Code. 54596

A certificate to practice as an emergency medical 54597

technician-ambulance that is valid on November 24, 1995, shall be 54598  
considered a certificate to practice as an emergency medical 54599  
technician-basic. A certificate to practice as an advanced 54600  
emergency medical technician-ambulance that is valid on November 54601  
24, 1995, shall be considered a certificate to practice as an 54602  
emergency medical technician-intermediate. 54603

**Sec. 4765.33.** The state board of emergency medical, fire, and 54604  
transportation services may suspend or revoke certificates to 54605  
practice issued under section 4765.30 of the Revised Code, and may 54606  
take other disciplinary action against first responders, emergency 54607  
medical technicians-basic, emergency medical 54608  
technicians-intermediate, and emergency medical 54609  
technicians-paramedic pursuant to rules adopted under section 54610  
4765.11 of the Revised Code. 54611

**Sec. 4765.37.** (A) An emergency medical technician-basic shall 54612  
perform the emergency medical services described in this section 54613  
in accordance with this chapter and any rules adopted under it by 54614  
the state board of emergency medical, fire, and transportation 54615  
services. 54616

(B) An emergency medical technician-basic may operate, or be 54617  
responsible for operation of, an ambulance and may provide 54618  
emergency medical services to patients. In an emergency, an 54619  
EMT-basic may determine the nature and extent of illness or injury 54620  
and establish priority for required emergency medical services. An 54621  
EMT-basic may render emergency medical services such as opening 54622  
and maintaining an airway, giving positive pressure ventilation, 54623  
cardiac resuscitation, electrical interventions with automated 54624  
defibrillators to support or correct the cardiac function and 54625  
other methods determined by the board, controlling of hemorrhage, 54626  
treatment of shock, immobilization of fractures, bandaging, 54627  
assisting in childbirth, management of mentally disturbed 54628

patients, initial care of poison and burn patients, and 54629  
determining triage of adult and pediatric trauma victims. Where 54630  
patients must in an emergency be extricated from entrapment, an 54631  
EMT-basic may assess the extent of injury and render all possible 54632  
emergency medical services and protection to the entrapped 54633  
patient; provide light rescue services if an ambulance has not 54634  
been accompanied by a specialized unit; and after extrication, 54635  
provide additional care in sorting of the injured in accordance 54636  
with standard emergency procedures. 54637

(C) An EMT-basic may perform any other emergency medical 54638  
services approved pursuant to rules adopted under section 4765.11 54639  
of the Revised Code. The board shall determine whether the nature 54640  
of any such service requires that an EMT-basic receive 54641  
authorization prior to performing the service. 54642

(D)(1) Except as provided in division (D)(2) of this section, 54643  
if the board determines under division (C) of this section that a 54644  
service requires prior authorization, the service shall be 54645  
performed only pursuant to the written or verbal authorization of 54646  
a physician or of the cooperating physician advisory board, or 54647  
pursuant to an authorization transmitted through a direct 54648  
communication device by a physician or registered nurse designated 54649  
by a physician. 54650

(2) If communications fail during an emergency situation or 54651  
the required response time prohibits communication, an EMT-basic 54652  
may perform services subject to this division, if, in the judgment 54653  
of the EMT-basic, the life of the patient is in immediate danger. 54654  
Services performed under these circumstances shall be performed in 54655  
accordance with the protocols for triage of adult and pediatric 54656  
trauma victims established in rules adopted under sections 4765.11 54657  
and 4765.40 of the Revised Code and any applicable protocols 54658  
adopted by the emergency medical service organization with which 54659  
the EMT-basic is affiliated. 54660

**Sec. 4765.38.** (A) An emergency medical technician-intermediate shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it.

(B) An EMT-I may do any of the following:

- (1) Establish and maintain an intravenous lifeline that has been approved by a cooperating physician or physician advisory board;
- (2) Perform cardiac monitoring;
- (3) Perform electrical interventions to support or correct the cardiac function;
- (4) Administer epinephrine;
- (5) Determine triage of adult and pediatric trauma victims;
- (6) Perform any other emergency medical services approved pursuant to rules adopted under section 4765.11 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by an EMT-I only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician or registered nurse designated by a physician.

(2) If communications fail during an emergency situation or the required response time prohibits communication, an EMT-I may perform any of the services described in division (B) of this section, if, in the judgment of the EMT-I, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in

rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the EMT-I is affiliated.

(D) In addition to, and in the course of, providing emergency medical treatment, an emergency medical technician-intermediate may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-intermediate shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of emergency medical and transportation services.

**Sec. 4765.39.** (A) An emergency medical technician-paramedic shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it.

(B) A paramedic may do any of the following:

(1) Perform cardiac monitoring;

(2) Perform electrical interventions to support or correct the cardiac function;

(3) Perform airway procedures;

(4) Perform relief of pneumothorax;

(5) Administer appropriate drugs and intravenous fluids;

(6) Determine triage of adult and pediatric trauma victims;

(7) Perform any other emergency medical services, including life support or intensive care techniques, approved pursuant to rules adopted under section 4765.11 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by a paramedic only pursuant to the written or verbal authorization of a physician or of the cooperating physician

advisory board, or pursuant to an authorization transmitted 54720  
through a direct communication device by a physician or registered 54721  
nurse designated by a physician. 54722

(2) If communications fail during an emergency situation or 54723  
the required response time prohibits communication, a paramedic 54724  
may perform any of the services described in division (B) of this 54725  
section, if, in the paramedic's judgment, the life of the patient 54726  
is in immediate danger. Services performed under these 54727  
circumstances shall be performed in accordance with the protocols 54728  
for triage of adult and pediatric trauma victims established in 54729  
rules adopted under sections 4765.11 and 4765.40 of the Revised 54730  
Code and any applicable protocols adopted by the emergency medical 54731  
service organization with which the paramedic is affiliated. 54732

(D) In addition to, and in the course of, providing emergency 54733  
medical treatment, an emergency medical technician-paramedic may 54734  
withdraw blood as provided under sections 1547.11, 4506.17, and 54735  
4511.19 of the Revised Code. An emergency medical 54736  
technician-paramedic shall withdraw blood in accordance with this 54737  
chapter and any rules adopted under it by the state board of 54738  
emergency medical, fire, and transportation services. 54739

**Sec. 4765.40.** (A)(1) Not later than two years after ~~the~~ 54740  
~~effective date of this amendment~~ November 3, 2000, the state board 54741  
of emergency medical, fire, and transportation services shall 54742  
adopt rules under section 4765.11 of the Revised Code establishing 54743  
written protocols for the triage of adult and pediatric trauma 54744  
victims. The rules shall define adult and pediatric trauma in a 54745  
manner that is consistent with section 4765.01 of the Revised 54746  
Code, minimizes overtriage and undertriage, and emphasizes the 54747  
special needs of pediatric and geriatric trauma patients. 54748

(2) The state triage protocols adopted under division (A) of 54749  
this section shall require a trauma victim to be transported 54750

directly to an adult or pediatric trauma center that is qualified 54751  
to provide appropriate adult or pediatric trauma care, unless one 54752  
or more of the following exceptions applies: 54753

(a) It is medically necessary to transport the victim to 54754  
another hospital for initial assessment and stabilization before 54755  
transfer to an adult or pediatric trauma center; 54756

(b) It is unsafe or medically inappropriate to transport the 54757  
victim directly to an adult or pediatric trauma center due to 54758  
adverse weather or ground conditions or excessive transport time; 54759

(c) Transporting the victim to an adult or pediatric trauma 54760  
center would cause a shortage of local emergency medical service 54761  
resources; 54762

(d) No appropriate adult or pediatric trauma center is able 54763  
to receive and provide adult or pediatric trauma care to the 54764  
trauma victim without undue delay; 54765

(e) Before transport of a patient begins, the patient 54766  
requests to be taken to a particular hospital that is not a trauma 54767  
center or, if the patient is less than eighteen years of age or is 54768  
not able to communicate, such a request is made by an adult member 54769  
of the patient's family or a legal representative of the patient. 54770

(3)(a) The state triage protocols adopted under division (A) 54771  
of this section shall require trauma patients to be transported to 54772  
an adult or pediatric trauma center that is able to provide 54773  
appropriate adult or pediatric trauma care, but shall not require 54774  
a trauma patient to be transported to a particular trauma center. 54775  
The state triage protocols shall establish one or more procedures 54776  
for evaluating whether an injury victim requires or would benefit 54777  
from adult or pediatric trauma care, which procedures shall be 54778  
applied by emergency medical service personnel based on the 54779  
patient's medical needs. In developing state trauma triage 54780  
protocols, the board shall consider relevant model triage rules 54781

and shall consult with the commission on minority health, regional 54782  
directors, regional physician advisory boards, and appropriate 54783  
medical, hospital, and emergency medical service organizations. 54784

(b) Before the joint committee on agency rule review 54785  
considers state triage protocols for trauma victims proposed by 54786  
the state board of emergency medical, fire, and transportation 54787  
services, or amendments thereto, the board shall send a copy of 54788  
the proposal to the Ohio chapter of the American college of 54789  
emergency physicians, the Ohio chapter of the American college of 54790  
surgeons, the Ohio chapter of the American academy of pediatrics, 54791  
OHA: the association for hospitals and health systems, the Ohio 54792  
osteopathic association, and the association of Ohio children's 54793  
hospitals and shall hold a public hearing at which it must 54794  
consider the appropriateness of the protocols to minimize 54795  
overtriage and undertriage of trauma victims. 54796

(c) The board shall provide copies of the state triage 54797  
protocols, and amendments to the protocols, to each emergency 54798  
medical service organization, regional director, regional 54799  
physician advisory board, certified emergency medical service 54800  
instructor, and person who regularly provides medical direction to 54801  
emergency medical service personnel in the state; to each medical 54802  
service organization in other jurisdictions that regularly provide 54803  
emergency medical services in this state; and to others upon 54804  
request. 54805

(B)(1) The state board of emergency medical, fire, and 54806  
transportation services shall approve regional protocols for the 54807  
triage of adult and pediatric trauma victims, and amendments to 54808  
such protocols, that are submitted to the board as provided in 54809  
division (B)(2) of this section and provide a level of adult and 54810  
pediatric trauma care comparable to the state triage protocols 54811  
adopted under division (A) of this section. The board shall not 54812  
otherwise approve regional triage protocols for trauma victims. 54813

The board shall not approve regional triage protocols for regions 54814  
that overlap and shall resolve any such disputes by apportioning 54815  
the overlapping territory among appropriate regions in a manner 54816  
that best serves the medical needs of the residents of that 54817  
territory. The trauma committee of the board shall have reasonable 54818  
opportunity to review and comment on regional triage protocols and 54819  
amendments to such protocols before the board approves or 54820  
disapproves them. 54821

(2) Regional protocols for the triage of adult and pediatric 54822  
trauma victims, and amendments to such protocols, shall be 54823  
submitted in writing to the state board of emergency medical, 54824  
fire, and transportation services by the regional physician 54825  
advisory board or regional director, as appropriate, that serves a 54826  
majority of the population in the region in which the protocols 54827  
apply. Prior to submitting regional triage protocols, or an 54828  
amendment to such protocols, to the state board of emergency 54829  
medical, fire, and transportation services, a regional physician 54830  
advisory board or regional director shall consult with each of the 54831  
following that regularly serves the region in which the protocols 54832  
apply: 54833

(a) Other regional physician advisory boards and regional 54834  
directors; 54835

(b) Hospitals that operate an emergency facility; 54836

(c) Adult and pediatric trauma centers; 54837

(d) Professional societies of physicians who specialize in 54838  
adult or pediatric emergency medicine or adult or pediatric trauma 54839  
surgery; 54840

(e) Professional societies of nurses who specialize in adult 54841  
or pediatric emergency nursing or adult or pediatric trauma 54842  
surgery; 54843

(f) Professional associations or labor organizations of 54844

emergency medical service personnel; 54845

(g) Emergency medical service organizations and medical 54846  
directors of such organizations; 54847

(h) Certified emergency medical service instructors. 54848

(3) Regional protocols for the triage of adult and pediatric 54849  
trauma victims approved under division (B)(2) of this section 54850  
shall require patients to be transported to a trauma center that 54851  
is able to provide an appropriate level of adult or pediatric 54852  
trauma care; shall not discriminate among trauma centers for 54853  
reasons not related to a patient's medical needs; shall seek to 54854  
minimize undertriage and overtriage; may include any of the 54855  
exceptions in division (A)(2) of this section; and supersede the 54856  
state triage protocols adopted under division (A) of this section 54857  
in the region in which the regional protocols apply. 54858

(4) Upon approval of regional protocols for the triage of 54859  
adult and pediatric trauma victims under division (B)(2) of this 54860  
section, or an amendment to such protocols, the state board of 54861  
emergency medical, fire, and transportation services shall provide 54862  
written notice of the approval and a copy of the protocols or 54863  
amendment to each entity in the region in which the protocols 54864  
apply to which the board is required to send a copy of the state 54865  
triage protocols adopted under division (A) of this section. 54866

(C)(1) The state board of emergency medical, fire, and 54867  
transportation services shall review the state triage protocols 54868  
adopted under division (A) of this section at least every three 54869  
years to determine if they are causing overtriage or undertriage 54870  
of trauma patients, and shall modify them as necessary to minimize 54871  
overtriage and undertriage. 54872

(2) Each regional physician advisory board or regional 54873  
director that has had regional triage protocols approved under 54874  
division (B)(2) of this section shall review the protocols at 54875

least every three years to determine if they are causing 54876  
overtriage or undertriage of trauma patients and shall submit an 54877  
appropriate amendment to the state board, as provided in division 54878  
(B) of this section, as necessary to minimize overtriage and 54879  
undertriage. The state board shall approve the amendment if it 54880  
will reduce overtriage or undertriage while complying with 54881  
division (B) of this section, and shall not otherwise approve the 54882  
amendment. 54883

(D) No provider of emergency medical services or person who 54884  
provides medical direction to emergency medical service personnel 54885  
in this state shall fail to comply with the state triage protocols 54886  
adopted under division (A) of this section or applicable regional 54887  
triage protocols approved under division (B)(2) of this section. 54888

(E) The state board of emergency medical, fire, and 54889  
transportation services shall adopt rules under section 4765.11 of 54890  
the Revised Code that provide for enforcement of the state triage 54891  
protocols adopted under division (A) of this section and regional 54892  
triage protocols approved under division (B)(2) of this section, 54893  
and for education regarding those protocols for emergency medical 54894  
service organizations and personnel, regional directors and 54895  
regional physician advisory boards, emergency medical service 54896  
instructors, and persons who regularly provide medical direction 54897  
to emergency medical service personnel in this state. 54898

**Sec. 4765.42.** Each emergency medical service organization 54899  
shall give notice of the name of its medical director or the names 54900  
of the members of its cooperating physician advisory board to the 54901  
state board of emergency medical, fire, and transportation 54902  
services. The notice shall be made in writing. 54903

**Sec. 4765.48.** The attorney general, the prosecuting attorney 54904  
of the county, or the city director of law shall, upon complaint 54905

of the state board of emergency medical, fire, and transportation 54906  
services, prosecute to termination or bring an action for 54907  
injunction against any person violating this chapter or the rules 54908  
adopted under it. The common pleas court in which an action for 54909  
injunction is filed has the jurisdiction to grant injunctive 54910  
relief upon a showing that the respondent named in the complaint 54911  
is in violation of this chapter or the rules adopted under it. 54912

**Sec. 4765.49.** (A) A first responder, emergency medical 54913  
technician-basic, emergency medical technician-intermediate, or 54914  
emergency medical technician-paramedic is not liable in damages in 54915  
a civil action for injury, death, or loss to person or property 54916  
resulting from the individual's administration of emergency 54917  
medical services, unless the services are administered in a manner 54918  
that constitutes willful or wanton misconduct. A physician or 54919  
registered nurse designated by a physician, who is advising or 54920  
assisting in the emergency medical services by means of any 54921  
communication device or telemetering system, is not liable in 54922  
damages in a civil action for injury, death, or loss to person or 54923  
property resulting from the individual's advisory communication or 54924  
assistance, unless the advisory communication or assistance is 54925  
provided in a manner that constitutes willful or wanton 54926  
misconduct. Medical directors and members of cooperating physician 54927  
advisory boards of emergency medical service organizations are not 54928  
liable in damages in a civil action for injury, death, or loss to 54929  
person or property resulting from their acts or omissions in the 54930  
performance of their duties, unless the act or omission 54931  
constitutes willful or wanton misconduct. 54932

(B) A political subdivision, joint ambulance district, joint 54933  
emergency medical services district, or other public agency, and 54934  
any officer or employee of a public agency or of a private 54935  
organization operating under contract or in joint agreement with 54936  
one or more political subdivisions, that provides emergency 54937

medical services, or that enters into a joint agreement or a 54938  
contract with the state, any political subdivision, joint 54939  
ambulance district, or joint emergency medical services district 54940  
for the provision of emergency medical services, is not liable in 54941  
damages in a civil action for injury, death, or loss to person or 54942  
property arising out of any actions taken by a first responder, 54943  
EMT-basic, EMT-I, or paramedic working under the officer's or 54944  
employee's jurisdiction, or for injury, death, or loss to person 54945  
or property arising out of any actions of licensed medical 54946  
personnel advising or assisting the first responder, EMT-basic, 54947  
EMT-I, or paramedic, unless the services are provided in a manner 54948  
that constitutes willful or wanton misconduct. 54949

(C) A student who is enrolled in an emergency medical 54950  
services training program accredited under section 4765.17 of the 54951  
Revised Code or an emergency medical services continuing education 54952  
program approved under that section is not liable in damages in a 54953  
civil action for injury, death, or loss to person or property 54954  
resulting from either of the following: 54955

(1) The student's administration of emergency medical 54956  
services or patient care or treatment, if the services, care, or 54957  
treatment is administered while the student is under the direct 54958  
supervision and in the immediate presence of an EMT-basic, EMT-I, 54959  
paramedic, registered nurse, or physician and while the student is 54960  
receiving clinical training that is required by the program, 54961  
unless the services, care, or treatment is provided in a manner 54962  
that constitutes willful or wanton misconduct; 54963

(2) The student's training as an ambulance driver, unless the 54964  
driving is done in a manner that constitutes willful or wanton 54965  
misconduct. 54966

(D) An EMT-basic, EMT-I, paramedic, or other operator, who 54967  
holds a valid commercial driver's license issued pursuant to 54968  
Chapter 4506. of the Revised Code or driver's license issued 54969

pursuant to Chapter 4507. of the Revised Code and who is employed 54970  
by an emergency medical service organization that is not owned or 54971  
operated by a political subdivision as defined in section 2744.01 54972  
of the Revised Code, is not liable in damages in a civil action 54973  
for injury, death, or loss to person or property that is caused by 54974  
the operation of an ambulance by the EMT-basic, EMT-I, paramedic, 54975  
or other operator while responding to or completing a call for 54976  
emergency medical services, unless the operation constitutes 54977  
willful or wanton misconduct or does not comply with the 54978  
precautions of section 4511.03 of the Revised Code. An emergency 54979  
medical service organization is not liable in damages in a civil 54980  
action for any injury, death, or loss to person or property that 54981  
is caused by the operation of an ambulance by its employee or 54982  
agent, if this division grants the employee or agent immunity from 54983  
civil liability for the injury, death, or loss. 54984

(E) An employee or agent of an emergency medical service 54985  
organization who receives requests for emergency medical services 54986  
that are directed to the organization, dispatches first 54987  
responders, EMTs-basic, EMTs-I, or paramedics in response to those 54988  
requests, communicates those requests to those employees or agents 54989  
of the organization who are authorized to dispatch first 54990  
responders, EMTs-basic, EMTs-I, or paramedics, or performs any 54991  
combination of these functions for the organization, is not liable 54992  
in damages in a civil action for injury, death, or loss to person 54993  
or property resulting from the individual's acts or omissions in 54994  
the performance of those duties for the organization, unless an 54995  
act or omission constitutes willful or wanton misconduct. 54996

(F) A person who is performing the functions of a first 54997  
responder, EMT-basic, EMT-I, or paramedic under the authority of 54998  
the laws of a state that borders this state and who provides 54999  
emergency medical services to or transportation of a patient in 55000  
this state is not liable in damages in a civil action for injury, 55001

death, or loss to person or property resulting from the person's 55002  
administration of emergency medical services, unless the services 55003  
are administered in a manner that constitutes willful or wanton 55004  
misconduct. A physician or registered nurse designated by a 55005  
physician, who is licensed to practice in the adjoining state and 55006  
who is advising or assisting in the emergency medical services by 55007  
means of any communication device or telemetering system is not 55008  
liable in damages in a civil action for injury, death, or loss to 55009  
person or property resulting from the person's advisory 55010  
communication or assistance, unless the advisory communication or 55011  
assistance is provided in a manner that constitutes willful or 55012  
wanton misconduct. 55013

(G) A person certified under section 4765.23 of the Revised 55014  
Code to teach in an emergency medical services training program or 55015  
emergency medical services continuing education program, and a 55016  
person who teaches at the Ohio fire academy established under 55017  
section 3737.33 of the Revised Code or in a fire service training 55018  
program described in division (A) of section 4765.55 of the 55019  
Revised Code, is not liable in damages in a civil action for 55020  
injury, death, or loss to person or property resulting from the 55021  
person's acts or omissions in the performance of the person's 55022  
duties, unless an act or omission constitutes willful or wanton 55023  
misconduct. 55024

(H) In the accreditation of emergency medical services 55025  
training programs or approval of emergency medical services 55026  
continuing education programs, the state board of emergency 55027  
medical, fire, and transportation services and any person or 55028  
entity authorized by the board to evaluate applications for 55029  
accreditation or approval are not liable in damages in a civil 55030  
action for injury, death, or loss to person or property resulting 55031  
from their acts or omissions in the performance of their duties, 55032  
unless an act or omission constitutes willful or wanton 55033

misconduct. 55034

(I) A person authorized by an emergency medical service 55035  
organization to review the performance of first responders, 55036  
EMTs-basic, EMTs-I, and paramedics or to administer quality 55037  
assurance programs is not liable in damages in a civil action for 55038  
injury, death, or loss to person or property resulting from the 55039  
person's acts or omissions in the performance of the person's 55040  
duties, unless an act or omission constitutes willful or wanton 55041  
misconduct. 55042

**Sec. 4765.55.** (A) The executive director of the state board 55043  
of emergency medical, fire, and transportation services, with the 55044  
advice and counsel of the firefighter and fire safety inspector 55045  
training committee of the state board of emergency medical, fire, 55046  
and transportation services, shall assist in the establishment and 55047  
maintenance by any state agency, or any county, township, city, 55048  
village, school district, or educational service center of a fire 55049  
service training program for the training of all persons in 55050  
positions of any fire training certification level approved by the 55051  
executive director, including full-time paid firefighters, 55052  
part-time paid firefighters, volunteer firefighters, and fire 55053  
safety inspectors in this state. The executive director, with the 55054  
advice and counsel of the committee, shall adopt rules to regulate 55055  
those firefighter and fire safety inspector training programs, and 55056  
other training programs approved by the executive director. The 55057  
rules may include, but need not be limited to, training 55058  
curriculum, certification examinations, training schedules, 55059  
minimum hours of instruction, attendance requirements, required 55060  
equipment and facilities, basic physical requirements, and methods 55061  
of training for all persons in positions of any fire training 55062  
certification level approved by the executive director, including 55063  
full-time paid firefighters, part-time paid firefighters, 55064  
volunteer firefighters, and fire safety inspectors. The rules 55065

adopted to regulate training programs for volunteer firefighters 55066  
shall not require more than thirty-six hours of training. 55067

The executive director, with the advice and counsel of the 55068  
committee, shall provide for the classification and chartering of 55069  
fire service training programs in accordance with rules adopted 55070  
under division (B) of this section, and may take action against 55071  
any chartered training program or applicant, in accordance with 55072  
rules adopted under divisions (B)(4) and (5) of this section, for 55073  
failure to meet standards set by the adopted rules. 55074

(B) The executive director, with the advice and counsel of 55075  
the firefighter and fire safety inspector training committee of 55076  
the state board of emergency medical, fire, and transportation 55077  
services, shall adopt, and may amend or rescind, rules under 55078  
Chapter 119. of the Revised Code that establish all of the 55079  
following: 55080

(1) Requirements for, and procedures for chartering, the 55081  
training programs regulated by this section; 55082

(2) Requirements for, and requirements and procedures for 55083  
obtaining and renewing, an instructor certificate to teach the 55084  
training programs and continuing education classes regulated by 55085  
this section; 55086

(3) Requirements for, and requirements and procedures for 55087  
obtaining and renewing, any of the fire training certificates 55088  
regulated by this section; 55089

(4) Grounds and procedures for suspending, revoking, 55090  
restricting, or refusing to issue or renew any of the certificates 55091  
or charters regulated by this section, which grounds shall be 55092  
limited to one of the following: 55093

(a) Failure to satisfy the education or training requirements 55094  
of this section; 55095

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| (b) Conviction of a felony offense;  | 55096  |
| (c) Conviction of a misdemeanor involving moral turpitude;   | 55097  |
| (d) Conviction of a misdemeanor committed in the course of<br>practice;  | 55098<br>55099   |
| (e) In the case of a chartered training program or applicant,<br>failure to meet standards set by the rules adopted under this<br>division.  | 55100<br>55101<br>55102  |
| (5) Grounds and procedures for imposing and collecting fines,<br>not to exceed one thousand dollars, in relation to actions taken<br>under division (B)(4) of this section against persons holding<br>certificates and charters regulated by this section, the fines to<br>be deposited into the trauma and emergency medical services fund<br>established under section 4513.263 of the Revised Code;   | 55103<br>55104<br>55105<br>55106<br>55107<br>55108                                     |
| (6) Continuing education requirements for certificate<br>holders, including a requirement that credit shall be granted for<br>in-service training programs conducted by local entities;  | 55109<br>55110<br>55111  |
| (7) Procedures for considering the granting of an extension<br>or exemption of fire service continuing education requirements;   | 55112<br>55113   |
| (8) Certification cycles for which the certificates and<br>charters regulated by this section are valid.   | 55114<br>55115   |
| (C) The executive director, with the advice and counsel of<br>the firefighter and fire safety inspector training committee of<br>the state board of emergency medical, <u>fire, and transportation</u><br>services, shall issue or renew an instructor certificate to teach<br>the training programs and continuing education classes regulated<br>by this section to any applicant that the executive director<br>determines meets the qualifications established in rules adopted<br>under division (B) of this section, and may take disciplinary<br>action against an instructor certificate holder or applicant in<br>accordance with rules adopted under division (B) of this section. | 55116<br>55117<br>55118<br>55119<br>55120<br>55121<br>55122<br>55123<br>55124<br>55125 |

The executive director, with the advice and counsel of the committee, shall charter or renew the charter of any training program that the executive director determines meets the qualifications established in rules adopted under division (B) of this section, and may take disciplinary action against the holder of a charter in accordance with rules adopted under division (B) of this section.

(D) The executive director shall issue or renew a fire training certificate for a firefighter, a fire safety inspector, or another position of any fire training certification level approved by the executive director, 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 actions against a certificate holder or applicant in accordance with rules adopted under division (B) of this section.

(E) Certificates issued under this section shall be on a form prescribed by the executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services.

(F)(1) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, fire, and transportation services, shall establish criteria for evaluating the standards maintained by other states and the branches of the United States military for firefighter, fire safety inspector, and fire instructor training programs, and other training programs recognized by the executive director, to determine whether the standards are equivalent to those established under this section and shall establish requirements and procedures for issuing a certificate to each person who presents proof to the executive director of having satisfactorily completed a training program

that meets those standards. 55158

(2) The executive director, with the committee's advice and 55159  
counsel, shall adopt rules establishing requirements and 55160  
procedures for issuing a fire training certificate in lieu of 55161  
completing a chartered training program. 55162

(G) Nothing in this section invalidates any other section of 55163  
the Revised Code relating to the fire training academy. Section 55164  
4765.11 of the Revised Code does not affect any powers and duties 55165  
granted to the executive director under this section. 55166

**Sec. 4765.56.** On receipt of a notice pursuant to section 55167  
3123.43 of the Revised Code, the state board of emergency medical, 55168  
fire, and transportation services shall comply with sections 55169  
3123.41 to 3123.50 of the Revised Code and any applicable rules 55170  
adopted under section 3123.63 of the Revised Code with respect to 55171  
a certificate to practice issued pursuant to this chapter. 55172

**Sec. 4766.01.** As used in this chapter: 55173

(A) "Advanced life support" means treatment described in 55174  
section 4765.39 of the Revised Code that a paramedic is certified 55175  
to perform. 55176

(B) "Air medical service organization" means an organization 55177  
that furnishes, conducts, maintains, advertises, promotes, or 55178  
otherwise engages in providing medical services with a rotorcraft 55179  
air ambulance or fixed wing air ambulance. 55180

(C) "Air medical transportation" means the transporting of a 55181  
patient by rotorcraft air ambulance or fixed wing air ambulance 55182  
with appropriately licensed and certified medical personnel. 55183

(D) "Ambulance" means any motor vehicle that is specifically 55184  
designed, constructed, or modified and equipped and is intended to 55185  
be used to provide basic life support, intermediate life support, 55186

advanced life support, or mobile intensive care unit services and 55187  
transportation upon the streets or highways of this state of 55188  
persons who are seriously ill, injured, wounded, or otherwise 55189  
incapacitated or helpless. "Ambulance" does not include air 55190  
medical transportation or a vehicle designed and used solely for 55191  
the transportation of nonstretcher-bound persons, whether 55192  
hospitalized or handicapped or whether ambulatory or confined to a 55193  
wheelchair. 55194

(E) "Ambulette" means a motor vehicle that is specifically 55195  
designed, constructed, or modified and equipped and is intended to 55196  
be used for transportation upon the streets or highways of this 55197  
state of persons who require use of a wheelchair. 55198

(F) "Basic life support" means treatment described in section 55199  
4765.37 of the Revised Code that an ~~EMT-basic~~ EMT is certified to 55200  
perform. 55201

(G) "Disaster situation" means any condition or situation 55202  
described by rule of the ~~Ohio~~ state board of emergency medical, 55203  
fire, and transportation board services as a mass casualty, major 55204  
emergency, natural disaster, or national emergency. 55205

(H) "Emergency medical service organization" means an 55206  
organization that uses ~~EMTs-basic~~ EMTs, ~~EMTs-I~~ advanced EMTs, or 55207  
paramedics, or a combination of ~~EMTs-basic~~ EMTs, ~~EMTs-I~~ advanced 55208  
EMTs, and paramedics, to provide medical care to victims of 55209  
illness or injury. An emergency medical service organization 55210  
includes, but is not limited to, a commercial ambulance service 55211  
organization, a hospital, and a funeral home. 55212

(I) "~~EMT-basic~~ EMT," "~~EMT-I~~ advanced EMT," and "paramedic" 55213  
have the same meanings as in section 4765.01 of the Revised Code. 55214

(J) "Fixed wing air ambulance" means a fixed wing aircraft 55215  
that is specifically designed, constructed, or modified and 55216  
equipped and is intended to be used as a means of air medical 55217

transportation. 55218

(K) "Intermediate life support" means treatment described in 55219  
section 4765.38 of the Revised Code that an ~~EMT-I~~ advanced EMT is 55220  
certified to perform. 55221

(L) "Major emergency" means any emergency event that cannot 55222  
be resolved through the use of locally available emergency 55223  
resources. 55224

(M) "Mass casualty" means an emergency event that results in 55225  
ten or more persons being injured, incapacitated, made ill, or 55226  
killed. 55227

(N) "Medical emergency" means an unforeseen event affecting 55228  
an individual in such a manner that a need for immediate care is 55229  
created. 55230

(O) "Mobile intensive care unit" means an ambulance used only 55231  
for maintaining specialized or intensive care treatment and used 55232  
primarily for interhospital transports of patients whose 55233  
conditions require care beyond the scope of a paramedic as 55234  
provided in section 4765.39 of the Revised Code. 55235

(P)(1) "Nonemergency medical service organization" means a 55236  
person that does both of the following: 55237

(a) Provides services to the public on a regular basis for 55238  
the purpose of transporting individuals who require the use of a 55239  
wheelchair or are confined to a wheelchair to receive health care 55240  
services at health care facilities or health care practitioners' 55241  
offices in nonemergency circumstances; 55242

(b) Provides the services for a fee, regardless of whether 55243  
the fee is paid by the person being transported, a third party 55244  
payer, as defined in section 3702.51 of the Revised Code, or any 55245  
other person or government entity. 55246

(2) "Nonemergency medical service organization" does not 55247

include a health care facility, as defined in section 1751.01 of 55248  
the Revised Code, that provides ambulance services only to 55249  
patients of that facility. 55250

(Q) "Nontransport vehicle" means a motor vehicle operated by 55251  
a licensed emergency medical service organization not as an 55252  
ambulance, but as a vehicle for providing services in conjunction 55253  
with the ambulances operated by the organization or other 55254  
emergency medical service organizations. 55255

(R) "Patient" means any individual who as a result of illness 55256  
or injury needs medical attention, whose physical or mental 55257  
condition is such that there is imminent danger of loss of life or 55258  
significant health impairment, who may be otherwise incapacitated 55259  
or helpless as a result of a physical or mental condition, or 55260  
whose physical condition requires the use of a wheelchair. 55261

(S) "Rotorcraft air ambulance" means a helicopter or other 55262  
aircraft capable of vertical takeoffs, vertical landings, and 55263  
hovering that is specifically designed, constructed, or modified 55264  
and equipped and is intended to be used as a means of air medical 55265  
transportation. 55266

**Sec. 4766.03.** (A) ~~The Ohio state board of emergency medical,~~ 55267  
fire, and transportation board services shall adopt rules, in 55268  
accordance with Chapter 119. of the Revised Code, implementing the 55269  
requirements of this chapter. The rules shall include provisions 55270  
relating to the following: 55271

(1) Requirements for an emergency medical service 55272  
organization to receive a permit for an ambulance or nontransport 55273  
vehicle; 55274

(2) Requirements for an emergency medical service 55275  
organization to receive a license as a basic life-support, 55276  
intermediate life-support, advanced life-support, or mobile 55277

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| intensive care unit organization;  | 55278   |
| (3) Requirements for a nonemergency medical service organization to receive a permit for an ambulette vehicle;   | 55279<br>55280  |
| (4) Requirements for a nonemergency medical service organization to receive a license for an ambulette service;  | 55281<br>55282  |
| (5) Requirements for an air medical service organization to receive a permit for a rotorcraft air ambulance or fixed wing air ambulance;   | 55283<br>55284<br>55285   |
| (6) Requirements for licensure of air medical service organizations;   | 55286<br>55287  |
| (7) Forms for applications and renewals of licenses and permits;   | 55288<br>55289  |
| (8) Requirements for record keeping of service responses made by licensed emergency medical service organizations;   | 55290<br>55291  |
| (9) Fee amounts for licenses and permits, and their renewals;  | 55292   |
| (10) Inspection requirements for licensees' vehicles or aircraft, records, and physical facilities;  | 55293<br>55294  |
| (11) Fee amounts for inspections of ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles;   | 55295<br>55296<br>55297   |
| (12) Requirements for ambulances and nontransport vehicles used by licensed emergency medical service organizations, for ambulette vehicles used by licensed nonemergency medical service organizations, and for rotorcraft air ambulances or fixed wing air ambulances used by licensed air medical service organizations that specify for each type of vehicle or aircraft the types of equipment that must be carried, the communication systems that must be maintained, and the personnel who must staff the vehicle or aircraft; | 55298<br>55299<br>55300<br>55301<br>55302<br>55303<br>55304<br>55305<br>55306 |
| (13) The level of care each type of emergency medical service  | 55307   |

organization, nonemergency medical service organization, and air 55308  
medical service organization is authorized to provide; 55309

(14) Eligibility requirements for employment as an ambulette 55310  
driver, including grounds for disqualification due to the results 55311  
of a motor vehicle law violation check, chemical test, or criminal 55312  
records check. The rule may require that an applicant for 55313  
employment as an ambulette driver provide a set of fingerprints to 55314  
law enforcement authorities if the applicant comes under final 55315  
consideration for employment. 55316

(15) Any other rules that the board determines necessary for 55317  
the implementation and enforcement of this chapter. 55318

(B) In the rules for ambulances and nontransport vehicles 55319  
adopted under division (A)(12) of this section, the board may 55320  
establish requirements that vary according to whether the 55321  
emergency medical service organization using the vehicles is 55322  
licensed as a basic life-support, intermediate life-support, 55323  
advanced life-support, or mobile intensive care unit organization. 55324

(C) A mobile intensive care unit that is not dually certified 55325  
to provide advanced life-support and meets the requirements of the 55326  
rules adopted under this section is not required to carry 55327  
immobilization equipment, including board splint kits, traction 55328  
splints, backboards, backboard straps, cervical immobilization 55329  
devices, cervical collars, stair chairs, folding cots, or other 55330  
types of immobilization equipment determined by the board to be 55331  
unnecessary for mobile intensive care units. 55332

A mobile intensive care unit is exempt from the emergency 55333  
medical technician staffing requirements of section 4765.43 of the 55334  
Revised Code when it is staffed by at least one physician or 55335  
registered nurse and another person, designated by a physician, 55336  
who holds a valid license or certificate to practice in a health 55337  
care profession, and when at least one of the persons staffing the 55338

mobile intensive care unit is a registered nurse whose training 55339  
meets or exceeds the training required for a paramedic. 55340

**Sec. 4766.04.** (A) Except as otherwise provided in this 55341  
chapter, no person shall furnish, operate, conduct, maintain, 55342  
advertise, engage in, or propose or profess to engage in the 55343  
business or service in this state of transporting persons who are 55344  
seriously ill, injured, or otherwise incapacitated or who require 55345  
the use of a wheelchair or are confined to a wheelchair unless the 55346  
person is licensed pursuant to this section. 55347

(B) To qualify for a license as a basic life-support, 55348  
intermediate life-support, advanced life-support, or mobile 55349  
intensive care unit organization, an emergency medical service 55350  
organization shall do all of the following: 55351

(1) Apply for a permit for each ambulance and nontransport 55352  
vehicle owned or leased as provided in section 4766.07 of the 55353  
Revised Code; 55354

(2) Meet all requirements established in rules adopted by the 55355  
~~Ohio state board of emergency medical, fire, and~~ transportation 55356  
~~board services~~ regarding ambulances and nontransport vehicles, 55357  
including requirements pertaining to equipment, communications 55358  
systems, staffing, and level of care the particular organization 55359  
is permitted to render; 55360

(3) Maintain the appropriate type and amount of insurance as 55361  
specified in section 4766.06 of the Revised Code; 55362

(4) Meet all other requirements established under rules 55363  
adopted by the board for the particular license. 55364

(C) To qualify for a license to provide ambulette service, a 55365  
nonemergency medical service organization shall do all of the 55366  
following: 55367

(1) Apply for a permit for each ambulette owned or leased as 55368

provided in section 4766.07 of the Revised Code; 55369

(2) Meet all requirements established in rules adopted by the 55370  
~~Ohio state board of emergency~~ medical, fire, and transportation 55371  
~~board services~~ regarding ambulettes, including requirements 55372  
pertaining to equipment, communication systems, staffing, and 55373  
level of care the organization is permitted to render; 55374

(3) Maintain the appropriate type and amount of insurance as 55375  
specified in section 4766.06 of the Revised Code; 55376

(4) Meet all other requirements established under rules 55377  
adopted by the board for the license. 55378

(D) To qualify for a license to provide air medical 55379  
transportation, an air medical service organization shall do all 55380  
of the following: 55381

(1) Apply for a permit for each rotorcraft air ambulance and 55382  
fixed wing air ambulance owned or leased as provided in section 55383  
4766.07 of the Revised Code; 55384

(2) Meet all requirements established in rules adopted by the 55385  
~~Ohio state board of emergency~~ medical, fire, and transportation 55386  
~~board services~~ regarding rotorcraft air ambulances and fixed wing 55387  
air ambulances, including requirements pertaining to equipment, 55388  
communication systems, staffing, and level of care the 55389  
organization is permitted to render; 55390

(3) Maintain the appropriate type and amount of insurance as 55391  
specified in section 4766.06 of the Revised Code; 55392

(4) Meet all other requirements established under rules 55393  
adopted by the board for the license. 55394

(E) An emergency medical service organization that applies 55395  
for a license as a basic life-support, intermediate life-support, 55396  
advanced life-support, or mobile intensive care unit organization; 55397  
a nonemergency medical service organization that applies for a 55398

license to provide ambulance service; or an air medical service 55399  
organization that applies for a license to provide air medical 55400  
transportation shall submit a completed application to the board, 55401  
on a form provided by the board for each particular license, 55402  
together with the appropriate fees established under section 55403  
4766.05 of the Revised Code. The application form shall include 55404  
all of the following: 55405

(1) The name and business address of the operator of the 55406  
organization for which licensure is sought; 55407

(2) The name under which the applicant will operate the 55408  
organization; 55409

(3) A list of the names and addresses of all officers and 55410  
directors of the organization; 55411

(4) For emergency medical service organizations and 55412  
nonemergency medical service organizations, a description of each 55413  
vehicle to be used, including the make, model, year of 55414  
manufacture, mileage, vehicle identification number, and the color 55415  
scheme, insignia, name, monogram, or other distinguishing 55416  
characteristics to be used to designate the applicant's vehicle; 55417

(5) For air medical service organizations using fixed wing 55418  
air ambulances, a description of each aircraft to be used, 55419  
including the make, model, year of manufacture, and aircraft hours 55420  
on airframe; 55421

(6) For air medical service organizations using rotorcraft 55422  
air ambulances, a description of each aircraft to be used, 55423  
including the make, model, year of manufacture, aircraft hours on 55424  
airframe, aircraft identification number, and the color scheme, 55425  
insignia, name, monogram, or other distinguishing characteristics 55426  
to be used to designate the applicant's rotorcraft air ambulance; 55427

(7) The location and description of each place from which the 55428  
organization will operate; 55429

(8) A description of the geographic area to be served by the applicant; 55430  
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(9) Any other information the board, by rule, determines necessary. 55432  
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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. 55434  
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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. 55446  
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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. 55455  
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(I) Each license issued under this section and each permit issued under section 4766.07 of the Revised Code expires one year after the date of issuance and may be renewed in accordance with 55458  
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the standard renewal procedures of Chapter 4745. of the Revised 55461  
Code. An application for renewal shall include the license or 55462  
permit renewal fee established under section 4766.05 of the 55463  
Revised Code. An applicant for renewal of a permit also shall 55464  
submit to the board proof of an annual inspection of the vehicle 55465  
or aircraft for which permit renewal is sought. The board shall 55466  
renew a license if the applicant meets the requirements for 55467  
licensure and shall renew a permit if the applicant and vehicle or 55468  
aircraft meet the requirements to maintain a permit for that 55469  
vehicle or aircraft. 55470

(J) Each licensee shall maintain accurate records of all 55471  
service responses conducted. The records shall be maintained on 55472  
forms prescribed by the board and shall contain information as 55473  
specified by rule by the board. 55474

**Sec. 4766.05.** (A) The ~~Ohio~~ state board of emergency medical, 55475  
fire, and transportation board services shall establish by rule a 55476  
license fee, a permit fee for each ambulance, ambulette, 55477  
rotorcraft air ambulance, fixed wing air ambulance, and 55478  
nontransport vehicle owned or leased by the licensee that is or 55479  
will be used as provided in section 4766.07 of the Revised Code, 55480  
and fees for renewals of licenses and permits, taking into 55481  
consideration the actual costs incurred by the board in carrying 55482  
out its duties under this chapter. However, the fee for each 55483  
license and each renewal of a license shall not exceed one hundred 55484  
dollars, and the fee for each permit and each renewal of a permit 55485  
shall not exceed one hundred dollars for each ambulance, 55486  
rotorcraft air ambulance, fixed wing air ambulance, and 55487  
nontransport vehicle. ~~The fee for each permit and each renewal of~~ 55488  
~~a permit shall be twenty five dollars for each ambulette for one~~ 55489  
~~year after March 9, 2004. Thereafter, the board shall determine by~~ 55490  
rule the fee, which shall not exceed fifty dollars, for each 55491  
permit and each renewal of a permit for each ambulette. For 55492

purposes of establishing fees, "actual costs" includes the costs 55493  
of salaries, expenses, inspection equipment, supervision, and 55494  
program administration. 55495

(B) The board shall deposit all fees and other moneys 55496  
collected pursuant to sections 4766.04, 4766.07, and 4766.08 of 55497  
the Revised Code in the state treasury to the credit of the 55498  
~~occupational licensing~~ trauma and ~~regulatory~~ emergency medical 55499  
services fund, which is created by section ~~4743.05~~ 4513.263 of the 55500  
Revised Code. ~~All moneys from the fund shall be used solely for~~ 55501  
~~the salaries and expenses of the board incurred in implementing~~ 55502  
~~and enforcing this chapter.~~ 55503

(C) The board, subject to the approval of the controlling 55504  
board, may establish fees in excess of the maximum amounts allowed 55505  
under division (A) of this section, but such fees shall not exceed 55506  
those maximum amounts by more than fifty per cent. 55507

**Sec. 4766.07.** (A) Except as otherwise provided by rule of the 55508  
~~Ohio~~ state board of emergency medical, fire, and transportation 55509  
~~board~~ services, each emergency medical service organization, 55510  
nonemergency medical service organization, and air medical service 55511  
organization subject to licensure under this chapter shall possess 55512  
a valid permit for each ambulance, ambulette, rotorcraft air 55513  
ambulance, fixed wing air ambulance, and nontransport vehicle it 55514  
owns or leases that is or will be used by the licensee to perform 55515  
the services permitted by the license. Each licensee and license 55516  
applicant shall submit the appropriate fee and an application for 55517  
a permit for each ambulance, ambulette, rotorcraft air ambulance, 55518  
fixed wing air ambulance, and nontransport vehicle to the ~~Ohio~~ 55519  
state board of emergency medical, fire, and transportation ~~board~~ 55520  
services on forms provided by the board. The application shall 55521  
include documentation that the vehicle or aircraft meets the 55522  
appropriate standards set by the board, that the vehicle or 55523

aircraft has been inspected pursuant to division (C) of this 55524  
section, that the permit applicant maintains insurance as provided 55525  
in section 4766.06 of the Revised Code, and that the vehicle or 55526  
aircraft and permit applicant meet any other requirements 55527  
established under rules adopted by the board. 55528

The ~~Ohio~~ state board of emergency medical, fire, and 55529  
transportation ~~board~~ services may adopt rules in accordance with 55530  
Chapter 119. of the Revised Code to authorize the temporary use of 55531  
a vehicle or aircraft for which a permit is not possessed under 55532  
this section in back-up or disaster situations. 55533

(B)(1) Within sixty days after receiving a completed 55534  
application for a permit, the board shall issue or deny the 55535  
permit. The board shall deny an application if it determines that 55536  
the permit applicant, vehicle, or aircraft does not meet the 55537  
requirements of this chapter and the rules adopted under it that 55538  
apply to permits for ambulances, ambulettes, rotorcraft air 55539  
ambulances, fixed wing air ambulances, and nontransport vehicles. 55540  
The board shall send notice of the denial of an application by 55541  
certified mail to the permit applicant. The permit applicant may 55542  
request a hearing within ten days after receipt of the notice. If 55543  
the board receives a timely request, it shall hold a hearing in 55544  
accordance with Chapter 119. of the Revised Code. 55545

(2) If the board issues the vehicle permit for an ambulance, 55546  
ambulette, or nontransport vehicle, it also shall issue a decal, 55547  
in a form prescribed by rule, to be displayed on the rear window 55548  
of the vehicle. The board shall not issue a decal until all of the 55549  
requirements for licensure and permit issuance have been met. 55550

(3) If the board issues the aircraft permit for a rotorcraft 55551  
air ambulance or fixed wing air ambulance, it also shall issue a 55552  
decal, in a form prescribed by rule, to be displayed on the left 55553  
fuselage aircraft window in a manner that complies with all 55554

applicable federal aviation regulations. The board shall not issue 55555  
a decal until all of the requirements for licensure and permit 55556  
issuance have been met. 55557

(C) In addition to any other requirements that the board 55558  
establishes by rule, a licensee or license applicant applying for 55559  
an initial vehicle or aircraft permit under division (A) of this 55560  
section shall submit to the board the vehicle or aircraft for 55561  
which the permit is sought. Thereafter, a licensee shall annually 55562  
submit to the board each vehicle or aircraft for which a permit 55563  
has been issued. 55564

(1) The board shall conduct a physical inspection of an 55565  
ambulance, ambulette, or nontransport vehicle to determine its 55566  
roadworthiness and compliance with standard motor vehicle 55567  
requirements. 55568

(2) The board shall conduct a physical inspection of the 55569  
medical equipment, communication system, and interior of an 55570  
ambulance to determine the operational condition and safety of the 55571  
equipment and the ambulance's interior and to determine whether 55572  
the ambulance is in compliance with the federal requirements for 55573  
ambulance construction that were in effect at the time the 55574  
ambulance was manufactured, as specified by the general services 55575  
administration in the various versions of its publication titled 55576  
"federal specification for the star-of-life ambulance, 55577  
KKK-A-1822." 55578

(3) The board shall conduct a physical inspection of the 55579  
equipment, communication system, and interior of an ambulette to 55580  
determine the operational condition and safety of the equipment 55581  
and the ambulette's interior and to determine whether the 55582  
ambulette is in compliance with state requirements for ambulette 55583  
construction. The board shall determine by rule requirements for 55584  
the equipment, communication system, interior, and construction of 55585  
an ambulette. 55586

(4) The board shall conduct a physical inspection of the 55587  
medical equipment, communication system, and interior of a 55588  
rotorcraft air ambulance or fixed wing air ambulance to determine 55589  
the operational condition and safety of the equipment and the 55590  
aircraft's interior. 55591

(5) The board shall issue a certificate to the applicant for 55592  
each vehicle or aircraft that passes the inspection and may assess 55593  
a fee for each inspection, as established by the board. 55594

(6) The board shall adopt rules regarding the implementation 55595  
and coordination of inspections. The rules may permit the board to 55596  
contract with a third party to conduct the inspections required of 55597  
the board under this section. 55598

**Sec. 4766.08.** (A) The ~~Ohio~~ state board of emergency medical, 55599  
fire, and transportation board ~~may~~ services, pursuant to an 55600  
adjudication conducted in accordance with Chapter 119. of the 55601  
Revised Code, may suspend or revoke any license or permit or 55602  
renewal thereof issued under this chapter for any one or 55603  
combination of the following causes: 55604

(1) Violation of this chapter or any rule adopted thereunder; 55605

(2) Refusal to permit the board to inspect a vehicle or 55606  
aircraft used under the terms of a permit or to inspect the 55607  
records or physical facilities of a licensee; 55608

(3) Failure to meet the ambulance, ambulette, rotorcraft air 55609  
ambulance, fixed wing air ambulance, and nontransport vehicle 55610  
requirements specified in this chapter or the rules adopted 55611  
thereunder; 55612

(4) Violation of an order issued by the board; 55613

(5) Failure to comply with any of the terms of an agreement 55614  
entered into with the board regarding the suspension or revocation 55615  
of a license or permit or the imposition of a penalty under this 55616

section. 55617

(B) If the board determines that the records, record-keeping 55618  
procedures, or physical facilities of a licensee, or an ambulance, 55619  
ambulette, rotorcraft air ambulance, fixed wing air ambulance, or 55620  
nontransport vehicle for which a valid permit has been issued, do 55621  
not meet the standards specified in this chapter and the rules 55622  
adopted thereunder, the board shall notify the licensee of any 55623  
deficiencies within thirty days of finding the deficiencies. If 55624  
the board determines that the deficiencies exist and they remain 55625  
uncorrected after thirty days, the board may suspend the license, 55626  
vehicle permit, or aircraft permit. The licensee, notwithstanding 55627  
the suspension under this division, may operate until all appeals 55628  
have been exhausted. 55629

(C) At the discretion of the board, a licensee whose license 55630  
has been suspended or revoked under this section may be ineligible 55631  
to be licensed under this chapter for a period of not more than 55632  
three years from the date of the violation, provided that the 55633  
board shall make no determination on a period of ineligibility 55634  
until all the licensee's appeals relating to the suspension or 55635  
revocation have been exhausted. 55636

(D) The board may, in addition to any other action taken 55637  
under this section and after a hearing conducted pursuant to 55638  
Chapter 119. of the Revised Code, impose a penalty of not more 55639  
than fifteen hundred dollars for any violation specified in this 55640  
section. The attorney general shall institute a civil action for 55641  
the collection of any such penalty imposed. 55642

**Sec. 4766.09.** This chapter does not apply to any of the 55643  
following: 55644

(A) A person rendering services with an ambulance in the 55645  
event of a disaster situation when licensees' vehicles based in 55646  
the locality of the disaster situation are incapacitated or 55647

insufficient in number to render the services needed; 55648

(B) Any person operating an ambulance, ambulette, rotorcraft 55649  
air ambulance, or fixed wing air ambulance outside this state 55650  
unless receiving a person within this state for transport to a 55651  
location within this state; 55652

(C) A publicly owned or operated emergency medical service 55653  
organization and the vehicles it owns or leases and operates, 55654  
except as provided in section 307.051, division (G) of section 55655  
307.055, division (F) of section 505.37, division (B) of section 55656  
505.375, and division (B)(3) of section 505.72 of the Revised 55657  
Code; 55658

(D) An ambulance, ambulette, rotorcraft air ambulance, fixed 55659  
wing air ambulance, or nontransport vehicle owned or leased and 55660  
operated by the federal government; 55661

(E) A publicly owned and operated fire department vehicle; 55662

(F) Emergency vehicles owned by a corporation and operating 55663  
only on the corporation's premises, for the sole use by that 55664  
corporation; 55665

(G) An ambulance, nontransport vehicle, or other emergency 55666  
medical service organization vehicle owned and operated by a 55667  
municipal corporation; 55668

(H) A motor vehicle titled in the name of a volunteer rescue 55669  
service organization, as defined in section 4503.172 of the 55670  
Revised Code; 55671

(I) A public emergency medical service organization; 55672

(J) A fire department, rescue squad, or life squad comprised 55673  
of volunteers who provide services without expectation of 55674  
remuneration and do not receive payment for services other than 55675  
reimbursement for expenses; 55676

(K) A private, nonprofit emergency medical service 55677

organization when fifty per cent or more of its personnel are 55678  
volunteers, as defined in section 4765.01 of the Revised Code; 55679

(L) Emergency medical service personnel who are regulated by 55680  
the state board of emergency medical, fire, and transportation 55681  
services under Chapter 4765. of the Revised Code; 55682

(M) Any of the following that operates a transit bus, as that 55683  
term is defined in division (Q) of section 5735.01 of the Revised 55684  
Code, unless the entity provides ambulette services that are 55685  
reimbursed under the state medicaid plan: 55686

(1) A public nonemergency medical service organization; 55687

(2) An urban or rural public transit system; 55688

(3) A private nonprofit organization that receives grants 55689  
under section 5501.07 of the Revised Code. 55690

(N)(1) An entity, to the extent it provides ambulette 55691  
services, if the entity meets all of the following conditions: 55692

(a) The entity is certified by the department of aging or the 55693  
department's designee in accordance with section 173.391 of the 55694  
Revised Code or operates under a contract or grant agreement with 55695  
the department or the department's designee in accordance with 55696  
section 173.392 of the Revised Code. 55697

(b) The entity meets the requirements of section 4766.14 of 55698  
the Revised Code. 55699

(c) The entity does not provide ambulette services that are 55700  
reimbursed under the state medicaid plan. 55701

(2) A vehicle, to the extent it is used to provide ambulette 55702  
services, if the vehicle meets both of the following conditions: 55703

(a) The vehicle is owned by an entity that meets the 55704  
conditions specified in division (N)(1) of this section. 55705

(b) The vehicle does not provide ambulette services that are 55706

reimbursed under the state medicaid plan. 55707

(0) A vehicle that meets both of the following criteria, 55708  
unless the vehicle provides services that are reimbursed under the 55709  
state medicaid plan: 55710

(1) The vehicle was purchased with funds from a grant made by 55711  
the United States secretary of transportation under 49 U.S.C. 55712  
5310; 55713

(2) The department of transportation holds a lien on the 55714  
vehicle. 55715

**Sec. 4766.10.** This chapter does not invalidate any ordinance 55716  
or resolution adopted by a municipal corporation that establishes 55717  
standards for the licensure of emergency medical service 55718  
organizations as basic life-support, intermediate life-support, or 55719  
advanced life-support service organizations that have their 55720  
principal places of business located within the limits of the 55721  
municipal corporation, as long as the licensure standards meet or 55722  
exceed the standards established in this chapter and the rules 55723  
adopted thereunder. 55724

Emergency medical service organizations licensed by a 55725  
municipal corporation are subject to the jurisdiction of the ~~Ohio~~ 55726  
state board of emergency medical, fire, and transportation board 55727  
services, but the fees they pay to the board for licenses, 55728  
permits, and renewals thereof shall not exceed fifty per cent of 55729  
the fee amounts established by the board pursuant to section 55730  
4766.03 of the Revised Code. The board may choose to waive the 55731  
vehicle inspection requirements and inspection fees, but not the 55732  
permit fees, for the vehicles of organizations licensed by a 55733  
municipal corporation. 55734

**Sec. 4766.11.** (A) The ~~Ohio~~ state board of emergency medical, 55735  
fire, and transportation board services may investigate alleged 55736

violations of this chapter or the rules adopted under it and may 55737  
investigate any complaints received regarding alleged violations. 55738

In addition to any other remedies available and regardless of 55739  
whether an adequate remedy at law exists, the board may apply to 55740  
the court of common pleas in the county where a violation of any 55741  
provision of this chapter or any rule adopted pursuant thereto is 55742  
occurring for a temporary or permanent injunction restraining a 55743  
person from continuing to commit that violation. On a showing that 55744  
a person has committed a violation, the court shall grant the 55745  
injunction. 55746

In conducting an investigation under this section, the board 55747  
may issue subpoenas compelling the attendance and testimony of 55748  
witnesses and the production of books, records, and other 55749  
documents pertaining to the investigation. If a person fails to 55750  
obey a subpoena from the board, the board may apply to the court 55751  
of common pleas in the county where the investigation is being 55752  
conducted for an order compelling the person to comply with the 55753  
subpoena. On application by the board, the court shall compel 55754  
obedience by attachment proceedings for contempt, as in the case 55755  
of disobedience of the requirements of a subpoena from the court 55756  
or a refusal to testify therein. 55757

(B) The ~~medical-transportation~~ board may suspend a license 55758  
issued under this chapter without a prior hearing if it determines 55759  
that there is evidence that the license holder is subject to 55760  
action under this section and that there is clear and convincing 55761  
evidence that continued operation by the license holder presents a 55762  
danger of immediate and serious harm to the public. The 55763  
chairperson and executive director of the board shall make a 55764  
preliminary determination and describe the evidence on which they 55765  
made their determination to the board members. The board by 55766  
resolution may designate another board member to act in place of 55767

the chairperson or another employee to act in place of the 55768  
executive director in the event that the chairperson or executive 55769  
director is unavailable or unable to act. Upon review of the 55770  
allegations, the board, by the affirmative vote of ~~at least four a~~ 55771  
majority of its members, may suspend the license without a 55772  
hearing. 55773

~~Any method of communication, including a telephone conference 55774  
call, may be utilized for describing the evidence to the board 55775  
members, for reviewing the allegations, and for voting on the 55776  
suspension. 55777~~

Immediately following the decision by the board to suspend a 55778  
license under this division, the board shall issue a written order 55779  
of suspension and cause it to be delivered in accordance with 55780  
section 119.07 of the Revised Code. If the license holder subject 55781  
to the suspension requests an adjudication hearing by the board, 55782  
the date set for the adjudication shall be within fifteen days but 55783  
not earlier than seven days after the request unless another date 55784  
is agreed to by the license holder and the board. 55785

Any summary suspension imposed under this division remains in 55786  
effect, unless reversed by the board, until a final adjudicative 55787  
order issued by the board pursuant to this section and Chapter 55788  
119. of the Revised Code becomes effective. The board shall issue 55789  
its final adjudicative order not less than ninety days after 55790  
completion of its adjudication hearing. Failure to issue the order 55791  
by that day shall cause the summary suspension order to end, but 55792  
such failure shall not affect the validity of any subsequent final 55793  
adjudication order. 55794

**Sec. 4766.12.** If a county, township, joint ambulance 55795  
district, or joint emergency medical services district chooses to 55796  
have the ~~Ohio~~ state board of emergency medical, fire, and 55797  
transportation ~~board~~ services license its emergency medical 55798

service organizations and issue permits for its vehicles pursuant 55799  
to this chapter, except as may be otherwise provided, all 55800  
provisions of this chapter and all rules adopted by the board 55801  
thereunder are fully applicable. However, a county, township, 55802  
joint ambulance district, or joint emergency medical services 55803  
district is not required to obtain any type of permit from the 55804  
board for any of its nontransport vehicles. 55805

**Sec. 4766.13.** The ~~Ohio~~ state board of emergency medical, 55806  
fire, and transportation board services, by endorsement, may 55807  
license and issue vehicle permits to an emergency medical service 55808  
organization or a nonemergency medical service organization that 55809  
is regulated by another state. To qualify for a license and 55810  
vehicle permits by endorsement, an organization must submit 55811  
evidence satisfactory to the board that it has met standards in 55812  
another state that are equal to or more stringent than the 55813  
standards established by this chapter and the rules adopted under 55814  
it. 55815

**Sec. 4766.15.** (A) An applicant for employment as an ambulette 55816  
driver with an organization licensed pursuant to this chapter 55817  
shall submit proof to the organization of, or give consent to the 55818  
employer to obtain, all of the following: 55819

(1)(a) A valid driver's license issued pursuant to Chapter 55820  
4506. or 4507. of the Revised Code, or its equivalent, if the 55821  
applicant is a resident of another state; 55822

(b) A recent certified abstract of the applicant's record of 55823  
convictions for violations of motor vehicle laws provided by the 55824  
registrar of motor vehicles pursuant to section 4509.05 of the 55825  
Revised Code, or its equivalent, if the applicant is a resident of 55826  
another state. 55827

(2)(a) A certificate of completion of a course in first aid 55828

techniques offered by the American red cross or an equivalent organization; 55829  
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(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. 55831  
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(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; 55835  
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(4) The result of a criminal records check conducted by the bureau of criminal identification and investigation. 55841  
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(B) An organization may employ an applicant on a temporary provisional basis pending the completion of all of the requirements of this section. The length of the provisional period shall be determined by the board. 55843  
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(C) An organization licensed pursuant to this chapter shall use information received pursuant to this section to determine in accordance with rules adopted by the ~~Ohio~~ state board of emergency medical, fire, and transportation board services under section 4766.03 of the Revised Code whether an applicant is disqualified for employment. 55847  
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No applicant shall be accepted for permanent employment as an ambulette driver by an organization licensed pursuant to this chapter until all of the requirements of division (A) of this section have been met. 55853  
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**Sec. 4766.22.** (A) Not later than forty-five days after the end of each fiscal year, the ~~Ohio~~ state board of emergency 55857  
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| medical, <u>fire</u> , and <u>transportation board services</u> shall submit a | 55859 |
| report to the governor and general assembly that provides all of               | 55860 |
| the following information for that fiscal year:                                | 55861 |
| (1) The number of each of the following the board issued:                      | 55862 |
| (a) Basic life-support organization licenses;                                  | 55863 |
| (b) Intermediate life-support organization licenses;                           | 55864 |
| (c) Advanced life-support organization licenses;                               | 55865 |
| (d) Mobile intensive care unit organization licenses;                          | 55866 |
| (e) Ambulette service licenses;  | 55867 |
| (f) Air medical service organization licenses;                                 | 55868 |
| (g) Ambulance permits;   | 55869 |
| (h) Nontransport vehicle permits;  | 55870 |
| (i) Ambulette vehicle permits;   | 55871 |
| (j) Rotorcraft air ambulance permits;  | 55872 |
| (k) Fixed wing air ambulance permits.  | 55873 |
| (2) The amount of fees the board collected for issuing and                     | 55874 |
| renewing each type of license and permit specified in division                 | 55875 |
| (A)(1) of this section;  | 55876 |
| (3) The number of inspections the board or a third party on                    | 55877 |
| the board's behalf conducted in connection with each type of                   | 55878 |
| license and permit specified in division (A)(1) of this section                | 55879 |
| and the amount of fees the board collected for the inspections;                | 55880 |
| (4) The number of complaints that were submitted to the                        | 55881 |
| board;   | 55882 |
| (5) The number of investigations the board conducted under                     | 55883 |
| section 4766.11 of the Revised Code;   | 55884 |
| (6) The number of adjudication hearings the board held and                     | 55885 |
| the outcomes of the adjudications;   | 55886 |

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| (7) The amount of penalties the board imposed and collected under section 4766.08 of the Revised Code;  | 55887<br>55888   |
| (8) Other information the board determines reflects the board's operations.   | 55889<br>55890   |
| (B) The board shall post the annual report required by this section on its web site and make it available to the public on request.   | 55891<br>55892<br>55893  |
| <b>Sec. 4773.08.</b> The <del>public</del> <u>director of health council</u> shall adopt rules to implement and administer this chapter. In adopting the rules, the <del>council</del> <u>director</u> shall consider any recommendations made by the radiation advisory council created under section 3701.93 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall not be less stringent than any applicable standards specified in 42 C.F.R. 75. The rules shall establish all of the following: | 55894<br>55895<br>55896<br>55897<br>55898<br>55899<br>55900<br>55901 |
| (A) Standards for licensing general x-ray machine operators, radiographers, radiation therapy technologists, and nuclear medicine technologists;  | 55902<br>55903<br>55904  |
| (B) Application and renewal fees for licenses issued under this chapter that do not exceed the cost incurred in issuing and renewing the licenses;  | 55905<br>55906<br>55907  |
| (C) Standards for accreditation of educational programs and approval of continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology;   | 55908<br>55909<br>55910<br>55911                                     |
| (D) Fees for accrediting educational programs and approving continuing education programs in general x-ray machine operation, radiography, radiation therapy technology, and nuclear medicine technology that do not exceed the cost incurred in accrediting the educational programs;  | 55912<br>55913<br>55914<br>55915<br>55916                            |

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| (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;  | 55917<br>55918<br>55919          |
| (F) Continuing education requirements that must be met to have a license renewed under section 4773.03 of the Revised Code;  | 55920<br>55921                   |
| (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;  | 55922<br>55923<br>55924          |
| (H) Any other rules necessary for the implementation or administration of this chapter.  | 55925<br>55926                   |
| <b>Sec. 4781.01.</b> As used in this chapter:  | 55927                            |
| (A) "Industrialized unit" has the same meaning as in division (C)(3) of section 3781.06 of the Revised Code.   | 55928<br>55929                   |
| (B) "Installation" means any of the following:   | 55930                            |
| (1) The temporary or permanent construction of stabilization, support, and anchoring systems for manufactured housing;   | 55931<br>55932                   |
| (2) The placement and erection of a manufactured housing unit or components of a unit on a structural support system;  | 55933<br>55934                   |
| (3) The supporting, blocking, leveling, securing, anchoring, underpinning, or adjusting of any section or component of a manufactured housing unit;  | 55935<br>55936<br>55937          |
| (4) The joining or connecting of all sections or components of a manufactured housing unit.  | 55938<br>55939                   |
| (C) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.   | 55940<br>55941                   |
| (D) "Manufactured home park" <del>has the same meaning as in division (A) of section 3733.01 of the Revised Code</del> <u>means any tract of land upon which three or more manufactured or mobile homes used for habitation are parked, either free of charge or for</u> | 55942<br>55943<br>55944<br>55945 |

revenue purposes, and includes any roadway, building, structure, 55946  
vehicle, or enclosure used or intended for use as a part of the 55947  
facilities of the park. "Manufactured home park" does not include 55948  
any of the following: 55949

(1) A tract of land used solely for the storage or display 55950  
for sale of manufactured or mobile homes or solely as a temporary 55951  
park-camp as defined in section 3729.01 of the Revised Code; 55952

(2) A tract of land that is subdivided and the individual 55953  
lots are for sale or sold for the purpose of installation of 55954  
manufactured or mobile homes used for habitation and the roadways 55955  
are dedicated to the local government authority; 55956

(3) A tract of land within an area that is subject to local 55957  
zoning authority and subdivision requirements and is subdivided, 55958  
and the individual lots are for sale or sold for the purpose of 55959  
installation of manufactured or mobile homes for habitation. 55960

(E) "Manufactured housing" means manufactured homes and 55961  
mobile homes. 55962

(F) "Manufactured housing installer" means an individual who 55963  
installs manufactured housing. 55964

(G) "Mobile home" has the same meaning as in division (O) of 55965  
section 4501.01 of the Revised Code. 55966

(H) "Model standards" means the federal manufactured home 55967  
installation standards established pursuant to 42 U.S.C. 5404. 55968

(I) "Permanent foundation" has the same meaning as in 55969  
division (C)(5) of section 3781.06 of the Revised Code. 55970

(J) "Business" includes any activities engaged in by any 55971  
person for the object of gain, benefit, or advantage either direct 55972  
or indirect. 55973

(K) "Casual sale" means any transfer of a manufactured home 55974  
or mobile home by a person other than a manufactured housing 55975

dealer, manufactured housing salesperson, or manufacturer to an 55976  
ultimate consumer or a person who purchases the home for use as a 55977  
residence. 55978

(L) "Engaging in business" means commencing, conducting, or 55979  
continuing in business, or liquidating a business when the 55980  
liquidator thereof holds self out to be conducting such business; 55981  
making a casual sale or otherwise making transfers in the ordinary 55982  
course of business when the transfers are made in connection with 55983  
the disposition of all or substantially all of the transferor's 55984  
assets is not engaging in business. 55985

(M) "Manufactured home park operator" ~~has the same meaning as~~ 55986  
~~"operator" in section 3733.01 of the Revised Code or "park~~ 55987  
operator" means the person who has responsible charge of a 55988  
manufactured home park and who is licensed under sections 4781.26 55989  
to 4781.35 of the Revised Code. 55990

(N) "Manufactured housing broker" means any person acting as 55991  
a selling agent on behalf of an owner of a manufactured home or 55992  
mobile home that is subject to taxation under section 4503.06 of 55993  
the Revised Code. 55994

(O) "Manufactured housing dealer" means any person engaged in 55995  
the business of selling at retail, displaying, offering for sale, 55996  
or dealing in manufactured homes or mobile homes. 55997

(P) "Manufacturer" means a person who manufactures, 55998  
assembles, or imports manufactured homes or mobile homes. 55999

(Q) "Retail sale" or "sale at retail" means the act or 56000  
attempted act of selling, bartering, exchanging, or otherwise 56001  
disposing of a manufactured home or mobile home to an ultimate 56002  
purchaser for use as a residence. 56003

(R) "Salesperson" means any individual employed by a 56004  
manufactured housing dealer or manufactured housing broker to 56005  
sell, display, and offer for sale, or deal in manufactured homes 56006

or mobile homes for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(S) "Ultimate purchaser" means, with respect to any new manufactured home, the first person, other than a manufactured housing dealer purchasing in the capacity of a manufactured housing dealer, who purchases such new manufactured home for purposes other than resale.

(T) "Tenant" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who does not own the home occupying the lot.

(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot.

(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners.

(W) "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident.

(X) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(Y) "Security deposit" means any deposit of money or property to secure performance by the resident under a rental agreement.

(Z) "Development" means any artificial change to improved or

unimproved real estate, including, without limitation, buildings 56037  
or structures, dredging, filling, grading, paving, excavation or 56038  
drilling operations, or storage of equipment or materials, and the 56039  
construction, expansion, or substantial alteration of a 56040  
manufactured home park, for which plan review is required under 56041  
division (A) of section 4781.31 of the Revised Code. "Development" 56042  
does not include the building, construction, erection, or 56043  
manufacture of any building to which section 3781.06 of the 56044  
Revised Code is applicable. 56045

(AA) "Flood" or "flooding" means either of the following: 56046

(1) A general and temporary condition of partial or complete 56047  
inundation of normally dry land areas from any of the following: 56048

(a) The overflow of inland or tidal waters; 56049

(b) The unusual and rapid accumulation or runoff of surface 56050  
waters from any source; 56051

(c) Mudslides that are proximately caused by flooding as 56052  
defined in division (AA)(1)(b) of this section and that are akin 56053  
to a river of liquid and flowing mud on the surface of normally 56054  
dry land areas, as when earth is carried by a current of water and 56055  
deposited along the path of the current. 56056

(2) The collapse or subsidence of land along the shore of a 56057  
lake or other body of water as a result of erosion or undermining 56058  
that is caused by waves or currents of water exceeding anticipated 56059  
cyclical levels or that is suddenly caused by an unusually high 56060  
water level in a natural body of water, and that is accompanied by 56061  
a severe storm, by an unanticipated force of nature, such as a 56062  
flash flood, by an abnormal tidal surge, or by some similarly 56063  
unusual and unforeseeable event, that results in flooding as 56064  
defined in division (AA)(1)(a) of this section. 56065

(BB) "Flood plain" means the area adjoining any river, 56066  
stream, watercourse, or lake that has been or may be covered by 56067

flood water. 56068

(CC) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year. 56069  
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(DD) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood. 56071  
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(EE) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state. 56073  
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(FF) "Substantial damage" means damage of any origin sustained by a manufactured or mobile home that is situated in a manufactured home park located in a flood plain when the cost of restoring the home to its condition before the damage occurred will equal or exceed fifty per cent of the market value of the home before the damage occurred. 56077  
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(GG) "Substantially alter" means a change in the layout or design of a manufactured home park, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities. In the case of manufactured home parks located within a one-hundred-year flood plain, "substantially alter" also includes changes in elevation resulting from the addition of fill, grading, or excavation that may affect flood plain management. 56083  
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(HH) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and regardless of whether the one or more parcels, lots, or sites are under common or different ownership. 56091  
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**Sec. 4781.02.** (A) There is hereby created the manufactured homes commission which consists of nine members, with three 56096  
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members appointed by the governor, three members appointed by the president of the senate, and three members appointed by the speaker of the house of representatives.

(B)(1) Commission members shall be residents of this state, except for members appointed pursuant to divisions (B)(3)(b) and (B)(4)(a) of this section. Members shall be selected from a list of persons the Ohio manufactured homes association, or any successor entity, recommends, except for appointments made pursuant to division (B)(2) of this section.

(2) The governor shall appoint the following members:

(a) One member to represent the board of building standards, who may be a member of the board or a board employee not in the classified civil service, with an initial term ending December 31, 2007;

~~(b) One member to represent the department of health, who may be a department employee not in the classified civil service, with an initial term ending December 31, 2005~~ who is registered as a sanitarian in accordance with Chapter 4736. of the Revised Code, has experience with the regulation of manufactured homes, and is an employee of a health district described in section 3709.01 of the Revised Code;

(c) One member whose primary residence is a manufactured home, with an initial term ending December 31, 2006.

(3) The president of the senate shall appoint the following members:

(a) Two members who are manufactured housing installers who have been actively engaged in the installation of manufactured housing for the five years immediately prior to appointment, with the initial term of one installer ending December 31, 2007, and the initial term of the other installer ending December 31, 2005.

(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, 56158  
malfeasance, or unprofessional conduct in office. 56159

(2) Vacancies shall be filled in the manner of the original 56160  
appointment. 56161

**Sec. 4781.04.** (A) The manufactured homes commission shall 56162  
adopt rules pursuant to Chapter 119. of the Revised Code to do all 56163  
of the following: 56164

(1) Establish uniform standards that govern the installation 56165  
of manufactured housing. Not later than one hundred eighty days 56166  
after the secretary of the United States department of housing and 56167  
urban development adopts model standards for the installation of 56168  
manufactured housing or amends those standards, the commission 56169  
shall amend its standards as necessary to be consistent with, and 56170  
not less stringent than, the model standards for the design and 56171  
installation of manufactured housing the secretary adopts or any 56172  
manufacturers' standards that the secretary determines are equal 56173  
to or not less stringent than the model standards. 56174

(2) Govern the inspection of the installation of manufactured 56175  
housing. The rules shall specify that the commission, any building 56176  
department or personnel of any department, ~~any licensor or~~ 56177  
~~personnel of any licensor,~~ or any private third party, certified 56178  
pursuant to section 4781.07 of the Revised Code shall conduct all 56179  
inspections of the installation of manufactured housing located in 56180  
manufactured home parks to determine compliance with the uniform 56181  
installation standards the commission establishes pursuant to this 56182  
section. 56183

~~As used in division (A)(2) of this section, "licensor" has~~ 56184  
~~the same meaning as in section 3733.01 of the Revised Code.~~ 56185

(3) Govern the design, construction, installation, approval, 56186  
and inspection of foundations and the base support systems for 56187

manufactured housing. The rules shall specify that the commission, 56188  
any building department or personnel of any department, ~~any~~ 56189  
~~licensor or personnel of any licensor,~~ or any private third party, 56190  
certified pursuant to section 4781.07 of the Revised Code shall 56191  
conduct all inspections of the installation, foundations, and base 56192  
support systems of manufactured housing located in manufactured 56193  
home parks to determine compliance with the uniform installation 56194  
standards and foundation and base support system design the 56195  
commission establishes pursuant to this section. 56196

~~As used in division (A)(3) of this section, "licensor" has 56197  
the same meaning as in section 3733.01 of the Revised Code. 56198~~

(4) Govern the training, experience, and education 56199  
requirements for manufactured housing installers, manufactured 56200  
housing dealers, manufactured housing brokers, and manufactured 56201  
housing salespersons; 56202

(5) Establish a code of ethics for manufactured housing 56203  
installers; 56204

(6) Govern the issuance, revocation, and suspension of 56205  
licenses to manufactured housing installers; 56206

(7) Establish fees for the issuance and renewal of licenses, 56207  
for conducting inspections to determine an applicant's compliance 56208  
with this chapter and the rules adopted pursuant to it, and for 56209  
the commission's expenses incurred in implementing this chapter; 56210

(8) Establish conditions under which a licensee may enter 56211  
into contracts to fulfill the licensee's responsibilities; 56212

(9) Govern the investigation of complaints concerning any 56213  
violation of this chapter or the rules adopted pursuant to it or 56214  
complaints involving the conduct of any licensed manufactured 56215  
housing installer or person installing manufactured housing 56216  
without a license, licensed manufactured housing dealer, licensed 56217  
manufactured housing broker, or manufactured housing salesperson; 56218

(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         | 56250 |
| installation and other aspects of installation the commission      | 56251 |
| determines appropriate;  | 56252 |
| (2) Select, provide, or procure appropriate examination            | 56253 |
| questions and answers for the licensure examination and establish  | 56254 |
| the criteria for successful completion of the examination;         | 56255 |
| (3) Prepare and distribute any application form this chapter       | 56256 |
| requires;  | 56257 |
| (4) Receive applications for licenses and renewal of licenses      | 56258 |
| and issue licenses to qualified applicants;                        | 56259 |
| (5) Establish procedures for processing, approving, and            | 56260 |
| disapproving applications for licensure;                           | 56261 |
| (6) Retain records of applications for licensure, including        | 56262 |
| all application materials submitted and a written record of the    | 56263 |
| action taken on each application;                                  | 56264 |
| (7) Review the design and plans for manufactured housing           | 56265 |
| installations, foundations, and support systems;                   | 56266 |
| (8) Inspect a sample of homes at a percentage the commission       | 56267 |
| determines to evaluate the construction and installation of        | 56268 |
| manufactured housing installations, foundations, and support       | 56269 |
| systems to determine compliance with the standards the commission  | 56270 |
| adopts;  | 56271 |
| (9) Investigate complaints concerning violations of this           | 56272 |
| chapter or the rules adopted pursuant to it, or the conduct of any | 56273 |
| manufactured housing installer, manufactured housing dealer,       | 56274 |
| manufactured housing broker, or manufactured housing salesperson;  | 56275 |
| (10) Determine appropriate disciplinary actions for                | 56276 |
| violations of this chapter;  | 56277 |
| (11) Conduct audits and inquiries of manufactured housing          | 56278 |
| installers, manufactured housing dealers, and manufactured housing | 56279 |

brokers as appropriate for the enforcement of this chapter. The 56280  
commission, or any person the commission employs for the purpose, 56281  
may review and audit the business records of any manufactured 56282  
housing installer, dealer, or broker during normal business hours. 56283

(12) Approve an installation training course, which may be 56284  
offered by the Ohio manufactured homes association or other 56285  
entity; 56286

(13) Perform any function or duty necessary to administer 56287  
this chapter and the rules adopted pursuant to it. 56288

(C) Nothing in this section shall be construed to limit the 56289  
authority of a board of health to enforce section 3701.344 or 56290  
Chapters 3703., 3718., and 3781. of the Revised Code. 56291

**Sec. 4781.07.** (A) Pursuant to rules the manufactured homes 56292  
commission adopts, the commission may certify municipal, township, 56293  
and county building departments and the personnel of those 56294  
departments, ~~licensors as defined in section 3733.01 of the~~ 56295  
~~Revised Code and the personnel of those licensors,~~ or any private 56296  
third party, to exercise the commission's enforcement authority, 56297  
accept and approve plans and specifications for foundations, 56298  
support systems and installations, and inspect manufactured 56299  
housing foundations, support systems, and manufactured housing 56300  
installations. Any certification is effective for three years. 56301

(B) Following an investigation and finding of facts that 56302  
support its action, the commission may revoke or suspend 56303  
certification. The commission may initiate an investigation on its 56304  
own motion or the petition of a person affected by the enforcement 56305  
or approval of plans. 56306

**Sec. 4781.09.** (A) The manufactured homes commission may deny, 56307  
suspend, revoke, or refuse to renew the license of any 56308  
manufactured home installer for any of the following reasons: 56309

|   |  |
|---|--|
| (1) Failure to satisfy the requirements of section 4781.08 or 4781.10 of the Revised Code;  | 56310<br>56311                                     |
| (2) Violation of this chapter or any rule adopted pursuant to it;   | 56312<br>56313                                     |
| (3) Making a material misstatement in an application for a license;   | 56314<br>56315                                     |
| (4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer;  | 56316<br>56317<br>56318                            |
| (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;   | 56319<br>56320<br>56321                            |
| (6) Conviction of a felony or a crime involving moral turpitude;  | 56322<br>56323                                     |
| (7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;  | 56324<br>56325                                     |
| (8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;   | 56326<br>56327                                     |
| (9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.  | 56328<br>56329                                     |
| (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.  | 56330<br>56331<br>56332                            |
| (B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed <del>pursuant to division (C) of this section</del> 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. | 56333<br>56334<br>56335<br>56336<br>56337<br>56338 |
| (2) Any licensee or applicant may appeal an order made  | 56339  |

pursuant to an adjudication hearing in the manner provided in 56340  
section 119.12 of the Revised Code. 56341

~~(C) As an alternative to suspending, revoking, or refusing to 56342  
renew a manufactured housing installer's license, the commission 56343  
may impose a civil penalty of not less than one hundred dollars or 56344  
more than five hundred dollars per violation of this chapter or 56345  
any rule adopted pursuant to it. The commission shall deposit 56346  
penalties in the occupational licensing and regulatory fund 56347  
pursuant to section 4743.05 of the Revised Code. 56348~~

~~(D) A person whose license is suspended, revoked, or not 56349  
renewed may apply for a new license two years after the date on 56350  
which the license was suspended, revoked, or not renewed. 56351~~

Sec. 4781.121. (A) The manufactured homes commission, 56352  
pursuant to section 4781.04 of the Revised Code, may investigate 56353  
any person who allegedly has committed a violation. If, after an 56354  
investigation the commission determines that reasonable evidence 56355  
exists that a person has committed a violation, within seven days 56356  
after that determination, the commission shall send a written 56357  
notice to that person in the same manner as prescribed in section 56358  
119.07 of the Revised Code for licensees, except that the notice 56359  
shall specify that a hearing will be held and specify the date, 56360  
time, and place of the hearing. 56361

(B) The commission shall hold a hearing regarding the alleged 56362  
violation in the same manner prescribed for an adjudication 56363  
hearing under section 119.09 of the Revised Code. If the 56364  
commission, after the hearing, determines that a violation has 56365  
occurred, the commission, upon an affirmative vote of five of its 56366  
members, may impose a fine not exceeding one thousand dollars per 56367  
violation per day. The commission's determination is an order that 56368  
the person may appeal in accordance with section 119.12 of the 56369  
Revised Code. 56370

(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. 56371  
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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. 56375  
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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. 56384  
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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. 56396  
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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 56399  
56400  
manufactured homes commission, has exclusive authority to regulate 56401

manufactured home installers, the installation of manufactured 56402  
housing, and manufactured housing foundations and support systems 56403  
in ~~the~~ this state. By enacting this chapter, it is the intent of 56404  
the general assembly to preempt municipal corporations and other 56405  
political subdivisions from regulating and licensing manufactured 56406  
housing installers and regulating and inspecting the installation 56407  
of manufactured housing and manufactured housing foundations and 56408  
support systems. 56409

(B) ~~Except as provided in division (A)(3) of section 3733.02~~ 56410  
~~of the Revised Code, the~~ The manufactured homes commission has 56411  
exclusive power to adopt rules of uniform application throughout 56412  
the state governing installation of manufactured housing, the 56413  
inspection of manufactured housing foundations and support 56414  
systems, the inspection of the installation of manufactured 56415  
housing, the training and licensing of manufactured housing 56416  
installers, and the investigation of complaints concerning 56417  
manufactured housing installers. 56418

(C) ~~Except as provided in division (A)(3) of section 3733.02~~ 56419  
~~of the Revised Code, the~~ The rules the commission adopts pursuant 56420  
to this chapter are the exclusive rules governing the installation 56421  
of manufactured housing, the design, construction, and approval of 56422  
foundations for manufactured housing, the licensure of 56423  
manufactured home installers, and the fees charged for licensure 56424  
of manufactured home installers. No political subdivision of the 56425  
state or any department or agency of the state may establish any 56426  
other standards governing the installation of manufactured 56427  
housing, manufactured housing foundations and support systems, the 56428  
licensure of manufactured housing installers, or fees charged for 56429  
the licensure of manufactured housing installers. 56430

(D) Nothing in this section limits the authority of the 56431  
attorney general to enforce Chapter 1345. of the Revised Code or 56432

to take any action permitted by the Revised Code against 56433  
manufactured housing installers, retailers, or manufacturers. 56434

**Sec. 4781.15.** The remedies provided in ~~sections 4781.01 to~~ 56435  
~~4781.14 of the Revised Code~~ this chapter are in addition to 56436  
remedies otherwise available for the same conduct under state or 56437  
local law. 56438

**Sec. 4781.16.** (A) Except as provided in division (E) of this 56439  
section, no person shall do any of the following: 56440

(1) Engage in the business of displaying or selling at retail 56441  
manufactured homes or mobile homes or assume to engage in that 56442  
business, unless the person is licensed as a manufactured housing 56443  
dealer under this chapter, or is a salesperson licensed under this 56444  
chapter and employed by a licensed manufactured housing dealer; 56445

(2) Make more than five casual sales of manufactured homes or 56446  
mobile homes in a twelve-month period without obtaining a license 56447  
as a manufactured housing dealer under this chapter; 56448

(3) Purchase a manufactured home directly from the 56449  
manufacturer without obtaining a license as a manufactured housing 56450  
dealer under this chapter; 56451

(4) Engage in the business of brokering manufactured homes 56452  
unless that person is licensed as a manufactured housing broker 56453  
under this chapter or licensed as a real estate broker or 56454  
salesperson pursuant to Chapter 4735. of the Revised Code. 56455

(B)(1) Except as provided in this division, no manufactured 56456  
housing dealer shall sell, display, offer for sale, or deal in 56457  
manufactured homes or mobile homes at any place except an 56458  
established place of business that is used exclusively for the 56459  
purpose of selling, displaying, offering for sale, or dealing in 56460  
manufactured homes or mobile homes. 56461

(2) No manufactured housing broker shall engage in the 56462  
business of brokering manufactured or mobile homes at any place 56463  
except an established place of business that is used exclusively 56464  
for the purpose of brokering manufactured and mobile homes. 56465

(3) A place of business used for the brokering or sale of 56466  
manufactured homes or mobile homes is considered to be used 56467  
exclusively for brokering, selling, displaying, offering for sale, 56468  
or dealing in manufactured or mobile homes even though 56469  
industrialized units, as defined by section 3781.06 of the Revised 56470  
Code, are brokered, sold, displayed, offered for sale, or dealt at 56471  
the same place of business. 56472

(4) If the licensed manufactured housing dealer is a 56473  
manufactured home park operator, then all of the following apply: 56474

(a) An established place of business that is located in the 56475  
operator's manufactured home park and that is used for selling, 56476  
leasing, and renting manufactured homes and mobile homes in that 56477  
manufactured home park is considered to be used exclusively for 56478  
that purpose even though rent and other activities related to the 56479  
operation of the manufactured home park take place at the same 56480  
location or office. 56481

(b) The dealer's established place of business in the 56482  
manufactured home park shall be staffed by someone licensed and 56483  
regulated under this chapter who could reasonably assist any 56484  
retail customer with or without an appointment, but such 56485  
established place of business need not satisfy office size, 56486  
display lot size, and physical barrier requirements applicable to 56487  
other used motor vehicle dealers. 56488

(c) The manufactured and mobile homes being offered for sale, 56489  
lease, or rental by the dealer may be located on individual rental 56490  
lots inside the operator's manufactured home park. 56491

(C) Nothing in this chapter shall be construed as prohibiting 56492

the sale of a new or used manufactured or mobile home located in a 56493  
manufactured home park by a licensed manufactured housing dealer. 56494

(D) Nothing in this section shall be construed to prohibit 56495  
persons licensed under this chapter from making sales calls. 56496

(E)(1) This chapter does not apply to mortgagees selling at 56497  
retail only those manufactured homes or mobile homes that have 56498  
come into their possession by a default in the terms of a mortgage 56499  
contract. 56500

(2) When a partnership licensed under this chapter is 56501  
dissolved by death, the surviving partners may operate under the 56502  
manufactured housing dealer license for a period of sixty days, 56503  
and the heirs or representatives of deceased persons and receivers 56504  
or trustees in bankruptcy appointed by any competent authority may 56505  
operate under the license of the person succeeded in possession by 56506  
that heir, representative, receiver, or trustee in bankruptcy. 56507

**Sec. ~~3733.02~~ 4781.26.** (A)(1) The ~~public health council~~ 56508  
manufactured homes commission, subject to Chapter 119. of the 56509  
Revised Code, shall adopt, and has the exclusive power to adopt, 56510  
rules of uniform application throughout the state governing the 56511  
review of plans, issuance of flood plain management permits, and 56512  
issuance of licenses for manufactured home parks; the location, 56513  
layout, density, construction, drainage, sanitation, safety, and 56514  
operation of those parks; and notices of flood events concerning, 56515  
and flood protection at, those parks. The rules pertaining to 56516  
flood plain management shall be consistent with and not less 56517  
stringent than the flood plain management criteria of the national 56518  
flood insurance program adopted under the "National Flood 56519  
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 56520  
amended. The rules shall not apply to the construction, erection, 56521  
or manufacture of any building to which section 3781.06 of the 56522  
Revised Code is applicable. 56523

~~(2)(B)~~ The rules pertaining to manufactured home parks 56524  
constructed after June 30, 1971, shall specify that each home must 56525  
be placed on its lot to provide not less than fifteen feet between 56526  
the side of one home and the side of another home, ten feet 56527  
between the end of one home and the side of another home, and five 56528  
feet between the ends of two homes placed end to end. 56529

~~(3)(C)~~ The manufactured homes commission shall determine 56530  
compliance with the installation, blocking, tiedown, foundation, 56531  
and base support system standards for manufactured housing located 56532  
in manufactured home parks adopted by the commission pursuant to 56533  
section 4781.04 of the Revised Code. All inspections of the 56534  
installation, blocking, tiedown, foundation, and base support 56535  
systems of manufactured housing in a manufactured home park that 56536  
the ~~department of health or a licenser~~ commission conducts shall 56537  
be conducted by a person ~~who has completed an installation~~ 56538  
~~training course approved by~~ the manufactured homes commission 56539  
certifies pursuant to ~~division (B)(12) of~~ section 4781.04 4781.07 56540  
of the Revised Code. 56541

~~As used in division (A)(3) of this section, "manufactured~~ 56542  
~~housing" has the same meaning as in section 4781.01 of the Revised~~ 56543  
~~Code.~~ 56544

~~(B) The public health council, in accordance with Chapter~~ 56545  
~~119. of the Revised Code, shall adopt rules of uniform application~~ 56546  
~~throughout the state establishing requirements and procedures in~~ 56547  
~~accordance with which the director of health may authorize~~ 56548  
~~licensors for the purposes of sections 3733.022 and 3733.025 of~~ 56549  
~~the Revised Code. The rules shall include at least provisions~~ 56550  
~~under which a licenser may enter into contracts for the purpose of~~ 56551  
~~fulfilling the licenser's responsibilities under either or both of~~ 56552  
~~those sections.~~ 56553

(D) The manufactured homes commission may enter into 56554  
contracts for the purpose of fulfilling the commission's annual 56555

inspection responsibilities for manufactured home parks under this 56556  
chapter. Boards of health of city or general health districts 56557  
shall have the right of first refusal for those contracts. 56558

**Sec. ~~3733.03~~ 4781.27.** (A)(1) On or after the first day of 56559  
December, but before the first day of January of the next year, 56560  
every person who intends to operate a manufactured home park shall 56561  
procure a license to operate the park for the next year from the 56562  
~~licensor~~ manufactured homes commission. If the applicable license 56563  
fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code 56564  
is not received by the ~~licensor~~ commission by the close of 56565  
business on the last day of December, the applicant for the 56566  
license shall pay a penalty equal to twenty-five per cent of the 56567  
applicable license fee. The penalty shall accompany the license 56568  
fee. If the last day of December is not a business day, the 56569  
penalty attaches upon the close of business on the next business 56570  
day. 56571

(2) No manufactured home park shall be maintained or operated 56572  
in this state without a license. 56573

(3) No person who has received a license, upon the sale or 56574  
disposition of the manufactured home park, may have the license 56575  
transferred to the new operator. A person shall obtain a separate 56576  
license to operate each manufactured home park. 56577

(B) Before a license is initially issued and annually 56578  
thereafter, or more often if necessary, the ~~licensor~~ commission 56579  
shall cause each manufactured home park to be inspected ~~relative~~ 56580  
~~to~~ for compliance with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 56581  
of the Revised Code and the rules adopted under those sections. A 56582  
record shall be made of each inspection on a form prescribed by 56583  
the ~~director of health~~ commission. 56584

(C) Each person applying for an initial license to operate a 56585  
manufactured home park shall provide acceptable proof to the 56586

~~director~~ commission that adequate fire protection will be provided 56587  
and that applicable fire codes will be adhered to in the 56588  
construction and operation of the park. 56589

**Sec. ~~3733.04~~ 4781.28.** The ~~licensor of a manufactured home~~ 56590  
~~park~~ manufactured homes commission may charge a fee for an annual 56591  
license to operate ~~such a~~ manufactured home park. The fee for a 56592  
license shall be determined in accordance with section ~~3709.09~~ 56593  
4781.26 of the Revised Code and shall include the cost of 56594  
licensing and all inspections. 56595

~~The fee also shall include any additional amount determined~~ 56596  
~~by rule of the public health council, which shall be collected and~~ 56597  
~~transmitted by the board of health to the director of health~~ 56598  
~~pursuant to section 3709.092 of the Revised Code and used only for~~ 56599  
~~the purpose of administering and enforcing sections 3733.01 to~~ 56600  
~~3733.08 of the Revised Code and the rules adopted under those~~ 56601  
~~sections. The portion of any fee retained by the board of health~~ 56602  
Any fees collected shall be paid into a special fund transmitted 56603  
to the treasurer of state and shall be credited to the 56604  
manufactured homes commission regulatory fund created in section 56605  
4781.54 of the Revised Code and used only for the purpose of 56606  
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 56607  
4781.35 of the Revised Code and the rules adopted thereunder. 56608

**Sec. ~~3733.05~~ 4781.29.** The ~~licensor of the health district in~~ 56609  
~~which a manufactured home park is or is to be located, in~~ 56610  
~~accordance with Chapter 119. of the Revised Code, manufactured~~ 56611  
~~homes commission~~ may refuse to grant, may suspend, or may revoke 56612  
any license granted to any person for failure to comply with 56613  
sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or 56614  
with any rule adopted ~~by the public health council~~ under section 56615  
~~3733.02~~ 4781.26 of the Revised Code. 56616

**Sec. ~~3733.06~~ 4781.30.** (A) Upon a license being issued under 56617  
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, 56618  
any operator shall have the right to rent or use each lot for the 56619  
parking or placement of a manufactured home or mobile home to be 56620  
used for human habitation without interruption for any period 56621  
coextensive with any license or consecutive licenses issued under 56622  
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code. 56623

(B) No operator of a manufactured home park shall sell 56624  
individual lots in a park for eight years following the issuance 56625  
of the initial license for the park unless, at the time of sale, 56626  
the park fulfills all platting and subdivision requirements 56627  
established by the political subdivision in which the park is 56628  
located, or the political subdivision has entered into an 56629  
agreement with the operator regarding platting and subdivision 56630  
requirements and the operator has fulfilled the terms of that 56631  
agreement. 56632

**Sec. ~~3733.07~~ 4781.301.** Fees authorized or charged under 56633  
sections ~~3733.021, 3733.022~~ 4781.31, 4781.32, and ~~3733.04~~ 4781.28 56634  
of the Revised Code are in lieu of all license and inspection fees 56635  
on or with respect to the operation or ownership of manufactured 56636  
home parks within this state, except that the licenser may charge 56637  
additional reasonable fees for the collection and bacteriological 56638  
examination of any necessary water samples taken from any such 56639  
park. 56640

**Sec. ~~3733.021~~ 4781.31.** (A) No person shall cause development 56641  
to occur within any portion of a manufactured home park until the 56642  
plans for the development have been submitted to and reviewed and 56643  
approved by the ~~director of health~~ manufactured homes commission. 56644  
This division does not require that plans be submitted to the 56645  
~~director~~ commission for approval for the replacement of 56646

manufactured or mobile homes on previously approved lots in a 56647  
manufactured home park when no development is to occur in 56648  
connection with the replacement. Within thirty days after receipt 56649  
of the plans, all supporting documents and materials required to 56650  
complete the review, and the applicable plan review fee 56651  
established under division (D) of this section, the ~~director~~ 56652  
commission shall approve or disapprove the plans. 56653

(B) Any person aggrieved by the ~~director's~~ commission's 56654  
disapproval of a set of plans under division (A) of this section 56655  
may request a hearing on the matter within thirty days after 56656  
receipt of the ~~director's~~ commission's notice of the disapproval. 56657  
The hearing shall be held in accordance with Chapter 119. of the 56658  
Revised Code. Thereafter, the disapproval may be appealed in the 56659  
manner provided in section 119.12 of the Revised Code. 56660

(C) The ~~director~~ commission shall establish a system by which 56661  
development occurring within a manufactured home park is inspected 56662  
or verified in accordance with rules adopted under ~~division (A) of~~ 56663  
section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the 56664  
development complies with the plans approved under division (A) of 56665  
this section. 56666

(D) The ~~public health council~~ commission shall establish fees 56667  
for reviewing plans under division (A) of this section and 56668  
conducting inspections under division (C) of this section. 56669

(E) The ~~director~~ commission shall charge the appropriate fees 56670  
established under division (D) of this section for reviewing plans 56671  
under division (A) of this section and conducting inspections 56672  
under division (C) of this section. All such plan review and 56673  
inspection fees received by the ~~director~~ commission shall be 56674  
transmitted to the treasurer of state and shall be credited to the 56675  
~~general operations~~ occupational licensing and regulatory fund 56676  
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 56677  
credited to the fund shall be used only for the purpose of 56678

administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 56679  
4781.35 of the Revised Code and rules adopted under those 56680  
sections. 56681

(F) Plan approvals issued under this section do not 56682  
constitute an exemption from the land use and building 56683  
requirements of the political subdivision in which the 56684  
manufactured home park is or is to be located. 56685

**Sec. ~~3733.022~~ 4781.32.** (A) No person shall cause development 56686  
to occur or cause the replacement of a mobile or manufactured home 56687  
within any portion of a manufactured home park that is located 56688  
within a one-hundred-year flood plain unless the person first 56689  
obtains a permit from the ~~director of health or a licenser~~ 56690  
~~authorized by the director~~ manufactured homes commission. If the 56691  
development for which a permit is required under this division is 56692  
to occur on a lot where a mobile or manufactured home is or is to 56693  
be located, the owner of the home and the operator of the 56694  
manufactured home park shall jointly obtain the permit. Each of 56695  
the persons to whom a permit is jointly issued is responsible for 56696  
compliance with the provisions of the approved permit that are 56697  
applicable to that person. 56698

The ~~director or a licenser authorized by the director~~ 56699  
commission shall disapprove an application for a permit required 56700  
under this division unless the ~~director or the licenser~~ commission 56701  
finds that the proposed development or replacement of a mobile or 56702  
manufactured home complies with the rules adopted under ~~division~~ 56703  
~~(A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code. No permit is 56704  
required under this division for the construction, erection, or 56705  
manufacture of any building to which section 3781.06 of the 56706  
Revised Code applies. 56707

The ~~director or a licenser authorized by the director~~ 56708  
commission may suspend or revoke a permit issued under this 56709

division for failure to comply with the rules adopted under 56710  
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 56711  
pertaining to flood plain management or for failure to comply with 56712  
the approved permit. 56713

Any person aggrieved by the disapproval, suspension, or 56714  
revocation of a permit under this division by the ~~director or by a~~ 56715  
~~licensor authorized by the director~~ commission may request a 56716  
hearing on the matter within thirty days after receipt of the 56717  
notice of the disapproval, suspension, or revocation. The hearing 56718  
shall be held in accordance with Chapter 119. of the Revised Code. 56719  
Thereafter, an appeal of the disapproval, suspension, or 56720  
revocation may be taken in the manner provided in section 119.12 56721  
of the Revised Code. 56722

(B) The ~~public health council~~ commission shall establish fees 56723  
for the issuance of permits under division (A) of this section and 56724  
for necessary inspections conducted to determine compliance with 56725  
those permits. 56726

(C) The ~~director or a licensor authorized by the director~~ 56727  
commission shall charge the appropriate fee established under 56728  
division (B) of this section for the issuance of a permit under 56729  
division (A) of this section or for conducting any necessary 56730  
inspection to determine compliance with the permit. If the 56731  
~~director~~ commission issues such a permit or conducts such an 56732  
inspection, the fee for the permit or inspection shall be 56733  
transmitted to the treasurer of state and shall be credited to the 56734  
~~general operations~~ occupational licensing and regulatory fund 56735  
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 56736  
credited to the fund shall be used ~~by the director~~ only for the 56737  
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 56738  
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 56739  
sections. ~~If the licensor is a board of health, the permit or~~ 56740  
~~inspection fee shall be deposited to the credit of the special~~ 56741

~~fund of the health district created in section 3733.04 of the Revised Code and shall be used only for the purpose set forth in that section.~~

**Sec. ~~3733.024~~ 4781.33.** (A) When a flood event affects a manufactured home park, the operator of the manufactured home park, in accordance with rules adopted under ~~division (A) of~~ section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the ~~licensor having jurisdiction of the occurrence of~~ manufactured homes commission and the board of health having jurisdiction where the flood event occurred within forty-eight hours after the end of the flood event. The commission, after receiving notification, shall immediately notify the board of health.

~~No person shall fail to comply with this division.~~

~~(B) The licensor having jurisdiction where a flood event occurred that affected a manufactured home park shall notify the director of health of the occurrence of the flood event within twenty four hours after being notified of the flood event under division (A) of this section. Within forty eight hours after~~ After being notified of such a flood event ~~by a licensor, the director~~ board of health shall cause an inspection to be made of the manufactured home park named in the notice. The board of health shall issue a report of the inspection to the commission within ten days after the inspection is completed.

**Sec. ~~3733.025~~ 4781.34.** (A) If a mobile or manufactured home that is located in a flood plain is substantially damaged, the owner of the home shall make all alterations, repairs, or changes to the home, and the operator of the manufactured home park shall make all alterations, repairs, or changes to the lot on which the home is located, that are necessary to ensure compliance with the flood plain management rules adopted under ~~division (A) of~~ section

~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or changes may include, without limitation, removal of the home or other structures.

No person shall fail to comply with this division.

(B) No person shall cause to be performed any alteration, repair, or change required by division (A) of this section unless the person first obtains a permit from the ~~director of health or a licensor authorized by the director~~ manufactured homes commission. ~~The owner of the home and the operator of the manufactured home park shall jointly obtain the permit required by this division. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.~~

~~The director or a licensor authorized by the director~~ commission shall disapprove an application for a permit required under this division unless the ~~director or the licensor~~ commission finds that the proposed alteration, repair, or change complies with the rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code. No permit is required under this division for the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies.

~~The director or a licensor authorized by the director~~ commission may suspend or revoke a permit issued under this division for failure to comply with the rules adopted under ~~division (A) of section 3733.02~~ 4781.26 of the Revised Code pertaining to flood plain management or for failure to comply with the approved permit for making alterations, repairs, or changes to the lot on which the manufactured home is located.

Any person aggrieved by the disapproval, suspension, or revocation of a permit under this division by the ~~director or by a licensor authorized by the director~~ commission may request a

hearing on the matter within thirty days after receipt of the 56803  
notice of the disapproval, suspension, or revocation. The hearing 56804  
shall be held in accordance with Chapter 119. of the Revised Code. 56805  
Thereafter, an appeal of the disapproval, suspension, or 56806  
revocation may be taken in the manner provided in section 119.12 56807  
of the Revised Code and for necessary inspections conducted to 56808  
determine compliance with those permits. 56809

(C) The ~~public health council~~ commission shall establish fees 56810  
for the issuance of permits under division (B) of this section and 56811  
for necessary inspections conducted to determine compliance with 56812  
those permits for making alterations, repairs, or changes to the 56813  
lot on which the manufactured home is located. 56814

(D) The ~~director or a licenser authorized by the director~~ 56815  
commission shall charge the appropriate fee established under 56816  
division (C) of this section for the issuance of a permit under 56817  
division (B) of this section or for conducting any necessary 56818  
inspection to determine compliance with the permit. If the 56819  
~~director~~ commission issues such a permit or conducts such an 56820  
inspection, the fee for the permit or inspection shall be 56821  
transmitted to the treasurer of state and shall be credited to the 56822  
~~general operations~~ occupational licensing and regulatory fund 56823  
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 56824  
credited to the fund shall be used ~~by the director~~ only for the 56825  
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 56826  
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 56827  
sections. ~~If the licenser is a board of health, the permit or~~ 56828  
~~inspection fee shall be deposited to the credit of the special~~ 56829  
~~fund of the health district created in section 3733.04 of the~~ 56830  
~~Revised Code and shall be used only for the purpose set forth in~~ 56831  
~~that section.~~ 56832

**Sec. ~~3733.08~~ 4781.35.** (A) No person shall violate sections 56833

~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the 56834  
rules adopted thereunder. 56835

(B) The prosecuting attorney of the county, the city director 56836  
of law, or the attorney general, upon complaint of the ~~licenser or~~ 56837  
~~the director of health~~ manufactured homes commission, shall 56838  
prosecute to termination or bring an action for injunction against 56839  
any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 56840  
of the Revised Code or the rules adopted thereunder. 56841

**Sec. ~~3733.09~~ 4781.36.** (A) Subject to section ~~3733.091~~ 4781.37 56842  
of the Revised Code, a park operator shall not retaliate against a 56843  
resident by increasing the resident's rent, decreasing services 56844  
that are due to the resident, refusing to renew or threatening to 56845  
refuse to renew the rental agreement with the resident, or 56846  
bringing or threatening to bring an action for possession of the 56847  
resident's premises because: 56848

(1) The resident has complained to an appropriate 56849  
governmental agency of a violation of a building, housing, health, 56850  
or safety code that is applicable to the premises, and the 56851  
violation materially affects health and safety; 56852

(2) The resident has complained to the park operator of any 56853  
violation of section ~~3733.10~~ 4781.38 of the Revised Code; 56854

(3) The resident joined with other residents for the purpose 56855  
of negotiating or dealing collectively with the park operator on 56856  
any of the terms and conditions of a rental agreement. 56857

(B) If a park operator acts in violation of division (A) of 56858  
this section, the resident may: 56859

(1) Use the retaliatory action of the park operator as a 56860  
defense to an action by the park operator to recover possession of 56861  
the premises; 56862

(2) Recover possession of the premises; 56863

|  |  |
|--|--|
| (3) Terminate the rental agreement.  | 56864  |
| In addition, the resident may recover from the park operator any actual damages together with reasonable attorneys fees.   | 56865<br>56866                                     |
| (C) Nothing in division (A) of this section prohibits a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises.  | 56867<br>56868<br>56869<br>56870<br>56871          |
| <b>Sec. <del>3733.091</del> <u>4781.37</u>.</b> (A) Notwithstanding section <del>3733.09</del> <u>4781.36</u> of the Revised Code, a park operator may bring an action under Chapter 1923. of the Revised Code for possession of the premises if any of the following applies:   | 56872<br>56873<br>56874<br>56875                   |
| (1) The resident is in default in the payment of rent.   | 56876  |
| (2) The violation of the applicable building, housing, health, or safety code that the resident complained of was primarily caused by any act or lack of reasonable care by the resident, by any other person in the resident's household, or by anyone on the premises with the consent of the resident.  | 56877<br>56878<br>56879<br>56880<br>56881          |
| (3) The resident is holding over the resident's term.  | 56882  |
| (4) The resident is in violation of rules of the <del>public health council</del> <u>manufactured homes commission</u> adopted pursuant to section <del>3733.02</del> <u>4781.26</u> of the Revised Code or rules of the manufactured home park adopted pursuant to the rules of the <del>public health council</del> <u>commission</u> .  | 56883<br>56884<br>56885<br>56886<br>56887          |
| (5) The resident has been absent from the manufactured home park for a period of thirty consecutive days prior to the commencement of the action, and the resident's manufactured home, mobile home, or recreational vehicle 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 | 56888<br>56889<br>56890<br>56891<br>56892<br>56893 |

due under the rental agreement. 56894

(B) The maintenance of an action by the park operator under 56895  
this section does not prevent the resident from recovering damages 56896  
for any violation by the park operator of the rental agreement or 56897  
of section ~~3733.10~~ 4781.38 of the Revised Code. 56898

**Sec. ~~3733.10~~ 4781.38.** (A) A park operator who is a party to a 56899  
rental agreement shall: 56900

(1) Comply with the requirements of all applicable building, 56901  
housing, health, and safety codes which materially affect health 56902  
and safety, and comply with rules of the ~~public health council~~ 56903  
manufactured homes commission; 56904

(2) Make all repairs and do whatever is reasonably necessary 56905  
to put and keep the premises in a fit and habitable condition; 56906

(3) Keep all common areas of the premises in a safe and 56907  
sanitary condition; 56908

(4) Maintain in good and safe working order and condition all 56909  
electrical and plumbing fixtures and appliances, and septic 56910  
systems, sanitary and storm sewers, refuse receptacles, and well 56911  
and water systems that are supplied or required to be supplied by 56912  
~~him~~ the park operator; 56913

(5) Not abuse the right of access conferred by division (B) 56914  
of section ~~3733.101~~ 4781.39 of the Revised Code; 56915

(6) Except in the case of emergency or if it is impracticable 56916  
to do so, give the resident reasonable notice of ~~his~~ the park 56917  
operator's intent to enter onto the residential premises and enter 56918  
only at reasonable times. Twenty-four hours' notice shall be 56919  
presumed to be a reasonable notice in the absence of evidence to 56920  
the contrary. 56921

(B) If the park operator violates any provision of this 56922  
section, makes a lawful entry onto the residential premises in an 56923

unreasonable manner, or makes repeated demands for entry otherwise 56924  
lawful which demands have the effect of harassing the resident, 56925  
the resident may recover actual damages resulting from the 56926  
violation, entry, or demands and injunctive relief to prevent the 56927  
recurrence of the conduct, and if ~~he~~ the resident obtains a 56928  
judgment, reasonable attorneys' fees, or terminate the rental 56929  
agreement. 56930

**Sec. ~~3733.101~~ 4781.39.** (A) A resident who is a party to a 56931  
rental agreement shall: 56932

(1) Keep that part of the premises that the resident occupies 56933  
and uses safe and sanitary; 56934

(2) Dispose of all rubbish, garbage, and other waste in a 56935  
clean, safe, and sanitary manner; 56936

(3) Comply with the requirements imposed on residents by all 56937  
applicable state and local housing, health, and safety codes, 56938  
rules of the ~~public health council~~ manufactured homes commission, 56939  
and rules of the manufactured home park; 56940

(4) Personally refrain, and forbid any other person who is on 56941  
the premises with the resident's permission, from intentionally or 56942  
negligently destroying, defacing, damaging, or removing any 56943  
fixture, appliance, or other part of the residential premises; 56944

(5) Conduct self and require other persons on the premises 56945  
with the resident's consent to conduct themselves in a manner that 56946  
will not disturb the resident's neighbors' peaceful enjoyment of 56947  
the manufactured home park. 56948

(B) The resident shall not unreasonably withhold consent for 56949  
the park operator to enter the home to inspect utility 56950  
connections, or enter onto the premises in order to inspect the 56951  
premises, make ordinary, necessary, or agreed repairs, 56952  
decorations, alterations, or improvements, deliver parcels which 56953

are too large for the resident's mail facilities, or supply 56954  
necessary or agreed services. 56955

(C) If the resident violates any provision of this section, 56956  
the park operator may recover any actual damages which result from 56957  
the violation and reasonable attorneys' fees. This remedy is in 56958  
addition to any right of the park operator to terminate the rental 56959  
agreement, to maintain an action for the possession of the 56960  
premises, or injunctive relief to compel access under division (B) 56961  
of this section. 56962

**Sec. ~~3733.11~~ 4781.40.** (A)(1) The park operator shall offer 56963  
each home owner a written rental agreement for a manufactured home 56964  
park lot for a term of one year or more that contains terms 56965  
essentially the same as any alternative month-to-month rental 56966  
agreement offered to current and prospective tenants and owners. 56967  
The park operator shall offer the minimum one-year rental 56968  
agreement to the owner prior to installation of the home in the 56969  
manufactured home park or, if the home is in the manufactured home 56970  
park, prior to the expiration of the owner's existing rental 56971  
agreement. 56972

(2) The park operator shall deliver the offer to the owner by 56973  
certified mail, return receipt requested, or in person. If the 56974  
park operator delivers the offer to the owner in person, the owner 56975  
shall complete a return showing receipt of the offer. If the owner 56976  
does not accept the offer, the park operator is discharged from 56977  
any obligation to make any further such offers. If the owner 56978  
accepts the offer, the park operator shall, at the expiration of 56979  
each successive rental agreement, offer the owner another rental 56980  
agreement, for a term that is mutually agreed upon, and that 56981  
contains terms essentially the same as the alternative 56982  
month-to-month agreement. The park operator shall deliver 56983  
subsequent rental offers by ordinary mail or personal delivery. If 56984

the park operator sells the manufactured home park to another 56985  
manufactured home park operator, the purchaser is bound by the 56986  
rental agreements entered into by the purchaser's predecessor. 56987

(3) If the park operator sells the manufactured home park for 56988  
a use other than as a manufactured home park, the park operator 56989  
shall give each tenant and owner a written notification by 56990  
certified mail, return receipt requested, or by handing it to the 56991  
tenant or owner in person. If the park operator delivers the 56992  
notification in person, the recipient shall complete a return 56993  
showing receipt of the notification. This notification shall 56994  
contain notice of the sale of the manufactured home park, and 56995  
notice of the date by which the tenant or owner shall vacate. The 56996  
date by which the tenant shall vacate shall be at least one 56997  
hundred twenty days after receipt of the written notification, and 56998  
the date by which the owner shall vacate shall be at least one 56999  
hundred eighty days after receipt of the written notification. 57000

(B) A park operator shall fully disclose in writing all fees, 57001  
charges, assessments, including rental fees, and rules prior to a 57002  
tenant or owner executing a rental agreement and assuming 57003  
occupancy in the manufactured home park. No fees, charges, 57004  
assessments, or rental fees so disclosed may be increased nor 57005  
rules changed by a park operator without specifying the date of 57006  
implementation of the changed fees, charges, assessments, rental 57007  
fees, or rules, which date shall be not less than thirty days 57008  
after written notice of the change and its effective date to all 57009  
tenants or owners in the manufactured home park, and no fee, 57010  
charge, assessment, or rental fee shall be increased during the 57011  
term of any tenant's or owner's rental agreement. Failure on the 57012  
part of the park operator to fully disclose all fees, charges, or 57013  
assessments shall prevent the park operator from collecting the 57014  
undisclosed fees, charges, or assessments. If a tenant or owner 57015  
refuses to pay any undisclosed fees, charges, or assessments, the 57016

refusal shall not be used by the park operator as a cause for 57017  
eviction in any court. 57018

(C) A park operator shall promulgate rules governing the 57019  
rental or occupancy of a lot in the manufactured home park. The 57020  
rules shall not be unreasonable, arbitrary, or capricious. A copy 57021  
of the rules and any amendments to them shall be delivered by the 57022  
park operator to the tenant or owner prior to signing the rental 57023  
agreement. A copy of the rules and any amendments to them shall be 57024  
posted in a conspicuous place upon the manufactured home park 57025  
grounds. 57026

(D) No park operator shall require an owner to purchase from 57027  
the park operator any personal property. The park operator may 57028  
determine by rule the style or quality of skirting, equipment for 57029  
tying down homes, manufactured or mobile home accessories, or 57030  
other equipment to be purchased by an owner from a vendor of the 57031  
owner's choosing, provided that the equipment is readily available 57032  
to the owner. Any such equipment shall be installed in accordance 57033  
with the manufactured home park rules. 57034

(E) No park operator shall charge any owner who chooses to 57035  
install an electric or gas appliance in a home an additional fee 57036  
solely on the basis of the installation, unless the installation 57037  
is performed by the park operator at the request of the owner, nor 57038  
shall the park operator restrict the installation, service, or 57039  
maintenance of the appliance, restrict the ingress or egress of 57040  
repairpersons to the manufactured home park for the purpose of 57041  
installation, service, or maintenance of the appliance, nor 57042  
restrict the making of any interior improvement in a home, if the 57043  
installation or improvement is in compliance with applicable 57044  
building codes and other provisions of law and if adequate utility 57045  
services are available for the installation or improvement. 57046

(F) No park operator shall require a tenant to lease or an 57047  
owner to purchase a manufactured or mobile home from the park 57048

operator or any specific person as a condition of or prerequisite 57049  
to entering into a rental agreement. 57050

(G) No park operator shall require an owner to use the 57051  
services of the park operator or any other specific person for 57052  
installation of the manufactured or mobile home on the residential 57053  
premises or for the performance of any service. 57054

(H) No park operator shall: 57055

(1) Deny any owner the right to sell the owner's manufactured 57056  
home within the manufactured home park if the owner gives the park 57057  
operator ten days' notice of the intention to sell the home; 57058

(2) Require the owner to remove the home from the 57059  
manufactured home park solely on the basis of the sale of the 57060  
home; 57061

(3) Unreasonably refuse to enter into a rental agreement with 57062  
a purchaser of a home located within the operator's manufactured 57063  
home park; 57064

(4) Charge any tenant or owner any fee, charge, or 57065  
assessment, including a rental fee, that is not set forth in the 57066  
rental agreement or, if the rental agreement is oral, is not set 57067  
forth in a written disclosure given to the tenant or owner prior 57068  
to the tenant or owner entering into a rental agreement; 57069

(5) Charge any owner any fee, charge, or assessment because 57070  
of the transfer of ownership of a home or because a home is moved 57071  
out of or into the manufactured home park, except a charge for the 57072  
actual costs and expenses that are incurred by the park operator 57073  
in moving the home out of or into the manufactured home park, or 57074  
in installing the home in the manufactured home park and that have 57075  
not been reimbursed by another tenant or owner. 57076

(I) If the park operator violates any provision of divisions 57077  
(A) to (H) of this section, the tenant or owner may recover actual 57078

damages resulting from the violation, and, if the tenant or owner 57079  
obtains a judgment, reasonable attorneys' fees, or terminate the 57080  
rental agreement. 57081

(J) No rental agreement shall require a tenant or owner to 57082  
sell, lease, or sublet the tenant's or owner's interest in the 57083  
rental agreement or the manufactured or mobile home that is or 57084  
will be located on the lot that is the subject of the rental 57085  
agreement to any specific person or through any specific person as 57086  
the person's agent. 57087

(K) No park operator shall enter into a rental agreement with 57088  
the owner of a manufactured or mobile home for the use of 57089  
residential premises, if the rental agreement requires the owner 57090  
of the home, as a condition to the owner's renting, occupying, or 57091  
remaining on the residential premises, to pay the park operator or 57092  
any other person specified in the rental agreement a fee or any 57093  
sum of money based on the sale of the home, unless the owner of 57094  
the home uses the park operator or other person as the owner's 57095  
agent in the sale of the home. 57096

(L) A park operator and a tenant or owner may include in a 57097  
rental agreement any terms and conditions, including any term 57098  
relating to rent, the duration of an agreement, and any other 57099  
provisions governing the rights and obligations of the parties 57100  
that are not inconsistent with or prohibited by sections 3733.09 57101  
to 3733.20 of the Revised Code or any other rule of law. 57102

(M) Notwithstanding any other provision of the Revised Code, 57103  
the owner of a manufactured or mobile home ~~that was previously~~ 57104  
~~titled by a dealer~~ may utilize the services of a manufactured home 57105  
housing dealer or broker licensed under Chapter 4517. of the 57106  
Revised Code or a person properly licensed under Chapter ~~4735-~~ 57107  
4781. of the Revised Code to sell or lease the home. 57108

**Sec. ~~3733.12~~ 4781.41.** (A) If a park operator fails to fulfill 57109

any obligation imposed upon ~~him~~ the park operator by section 57110  
~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or 57111  
the conditions of the premises are such that the resident 57112  
reasonably believes that a park operator has failed to fulfill any 57113  
such obligations, or a governmental agency has found that the 57114  
premises are not in compliance with building, housing, health, or 57115  
safety codes which apply to any condition of the residential 57116  
premises that could materially affect the health and safety of an 57117  
occupant, the resident may give notice in writing to the park 57118  
operator specifying the acts, omissions, or code violations that 57119  
constitute noncompliance with such provisions. The notice shall be 57120  
sent to the person or place where rent is normally paid. 57121

57122

(B) If a park operator receives the notice described in 57123  
division (A) of this section and after receipt of the notice fails 57124  
to remedy the condition within a reasonable time, considering the 57125  
severity of the condition and the time necessary to remedy such 57126  
condition, or within thirty days, whichever is sooner, and if the 57127  
resident is current in rent payments due under the rental 57128  
agreement, the resident may do one of the following: 57129

(1) Deposit all rent that is due and thereafter becomes due 57130  
the park operator with the clerk of court of the municipal or 57131  
county court having jurisdiction in the territory in which the 57132  
residential premises are located; 57133

(2) Apply to the court for an order directing the park 57134  
operator to remedy the condition. As part thereof, the resident 57135  
may deposit rent pursuant to division (B)(1) of this section, and 57136  
may apply for an order reducing the periodic rent due the park 57137  
operator until such time as the park operator does remedy the 57138  
condition, and may apply for an order to use the rent deposited to 57139  
remedy the condition. In any order issued pursuant to this 57140  
division, the court may require the resident to deposit rent with 57141

the clerk of court as provided in division (B)(1) of this section. 57142

**Sec. ~~3733.121~~ 4781.42.** (A) Whenever a resident deposits rent 57143  
with the clerk of a court as provided in section ~~3733.12~~ 4781.41 57144  
of the Revised Code, the clerk shall give written notice of this 57145  
fact to the park operator and to ~~his~~ the park operator's agent, if 57146  
any. 57147

(B) The clerk shall place all rent deposited with ~~him~~ the 57148  
clerk in a separate rent escrow account in the name of the clerk 57149  
in a bank or building and loan association domiciled in this 57150  
state. 57151

(C) The clerk shall keep in a separate docket an account of 57152  
each deposit, with the name and address of the resident, and the 57153  
name and address of the park operator and of ~~his~~ the park 57154  
operator's agent, if any. 57155

(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of 57156  
one per cent of the amount of the rent deposited, which shall be 57157  
assessed as court costs. 57158

(E) All interest that has accrued on the rent deposited by 57159  
the clerk of a county court under division (B) of this section 57160  
shall be paid into the treasury of the political subdivision for 57161  
which the clerk performs ~~his~~ the clerk's duties. All interest that 57162  
has accrued on the rent deposited by the clerk of a municipal 57163  
court under division (B) of this section shall be paid into the 57164  
city treasury as defined in division (B) of section 1901.03 of the 57165  
Revised Code. 57166

**Sec. ~~3733.122~~ 4781.43.** (A) A park operator who receives 57167  
notice that rent due ~~him~~ the park operator has been deposited with 57168  
a clerk of court pursuant to section ~~3733.12~~ 4781.41 of the 57169  
Revised Code, may: 57170

(1) Apply to the clerk of court for release of the rent on 57171

the ground that the condition contained in the notice given 57172  
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 57173  
Code has been remedied. The clerk shall forthwith release the 57174  
rent, less costs, to the park operator if the resident gives 57175  
written notice to the clerk that the condition has been remedied. 57176

(2) Apply to the court for release of the rent on the grounds 57177  
that the resident did not comply with the notice requirement of 57178  
division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or 57179  
that the resident was not current in rent payments due under the 57180  
rental agreement at the time the resident initiated rent deposits 57181  
with the clerk of courts under division (B)(1) of section ~~3733.12~~ 57182  
4781.41 of the Revised Code; 57183

(3) Apply to the court for release of the rent on the grounds 57184  
that there was no violation of any obligation imposed upon the 57185  
park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by 57186  
the rental agreement, or by any building, housing, health, or 57187  
safety code, or that the condition contained in the notice given 57188  
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 57189  
Code has been remedied. 57190

(B) The resident shall be named as a party to any action 57191  
filed by the park operator under this section, and shall have the 57192  
right to file an answer and counterclaim, as in other civil cases. 57193  
A trial shall be held within sixty days of the date of filing of 57194  
the park operator's complaint, unless for good cause shown the 57195  
court grants a continuance. 57196

(C) If the court finds that there was no violation of any 57197  
obligation imposed upon the park operator by section ~~3733.10~~ 57198  
4781.38 of the Revised Code or by the rental agreement, or by any 57199  
building, housing, health, or safety code, or that the condition 57200  
contained in the notice given pursuant to division (A) of section 57201  
~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the 57202  
resident did not comply with the notice requirement of division 57203

(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the resident was not current in rent payments at the time the resident initiated rent deposits with the clerk of court under division (B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court shall order the release to the park operator of rent on deposit with the clerk, less costs.

(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;

(B) A statement that the rental agreement will terminate upon a date specified in the written notice not less than thirty days after receipt of the notice unless the resident remedies the violation;

(C) A statement that the violation was material and that if a second material violation of any park or ~~public health council~~ commission rule, or any health and safety code, occurs within six months after the date of this notice, the rental agreement will terminate immediately;

(D) A statement that a defense available to termination of the rental agreement for two material violations of park or ~~public health council~~ commission rules, or of health and safety codes, is that the park rule is unreasonable, or that the park or ~~public health council~~ commission rule, or health or safety code, is not being enforced against other manufactured home park residents, or that the two violations were not willful and not committed in bad faith.

If the resident remedies the condition described in the notice, whether by repair, the payment of damages, or otherwise, the rental agreement shall not terminate. The park operator may terminate the rental agreement immediately if the resident commits a second material violation of the park or ~~public health council~~ commission rules, or of applicable state and local health and safety codes, subject to the defense that the park rule is

unreasonable, that the park or ~~public health council~~ commission 57265  
rule, or health or safety code, is not being enforced against 57266  
other manufactured home park residents, or that the two violations 57267  
were not willful and not committed in bad faith. 57268

**Sec. ~~3733.14~~ 4781.46.** In any action under sections ~~3733.09~~ 57269  
4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, any party may 57270  
recover damages for the breach of contract or the breach of any 57271  
duty that is imposed by law. 57272

**Sec. ~~3733.15~~ 4781.47.** (A) No provision of sections ~~3733.09~~ 57273  
4781.36 to ~~3733.20~~ 4781.52 of the Revised Code may be modified or 57274  
waived by any oral or written agreement except as provided in 57275  
division (F) of this section. 57276

(B) No warrant of attorney to confess judgment shall be 57277  
recognized in any rental agreement or in any other agreement 57278  
between a park operator and resident for the recovery of rent or 57279  
damages to the residential premises. 57280

(C) No agreement to pay the park operator's or resident's 57281  
attorney fees shall be recognized in any rental agreement for 57282  
residential premises or in any other agreement between a park 57283  
operator and resident. 57284

(D) No agreement by a resident to the exculpation or 57285  
limitation of any liability of the park operator arising under law 57286  
or to indemnify the park operator for that liability or its 57287  
related costs shall be recognized in any rental agreement or in 57288  
any other agreement between a park operator and resident. 57289

(E) A rental agreement, or the assignment, conveyance, trust 57290  
deed, or security instrument of the park operator's interest in 57291  
the rental agreement may not permit the receipt of rent free of 57292  
the obligation to comply with section ~~3733.10~~ 4781.38 of the 57293  
Revised Code. 57294

(F) The park operator may agree to assume responsibility for 57295  
fulfilling any duty or obligation imposed on a resident by section 57296  
~~3733.101~~ 4781.39 of the Revised Code. 57297

**Sec. ~~3733.16~~ 4781.48.** (A) If the court as a matter of law 57298  
finds a rental agreement, or any clause of it, to have been 57299  
unconscionable at the time it was made, it may refuse to enforce 57300  
the rental agreement or it may enforce the remainder of the rental 57301  
agreement without the unconscionable clause, or it may so limit 57302  
the application of any unconscionable clause as to avoid any 57303  
unconscionable result. 57304

(B) When it is claimed or appears to the court that the 57305  
rental agreement, or any clause of it, may be unconscionable, the 57306  
parties shall be afforded a reasonable opportunity to present 57307  
evidence as to its setting, purpose, and effect to aid the court 57308  
in making the determination. 57309

**Sec. ~~3733.17~~ 4781.49.** (A) No park operator of residential 57310  
premises shall initiate any act, including termination of 57311  
utilities or services, exclusion from the premises, or threat of 57312  
any unlawful act, against a resident, or a resident whose right to 57313  
possession has terminated, for the purpose of recovering 57314  
possession of residential premises, other than as provided in 57315  
Chapters 1923., ~~3733.~~ 4781., and 5303. of the Revised Code. 57316

(B) No park operator of residential premises shall seize the 57317  
furnishings or possessions of a resident, or of a resident whose 57318  
right to possession was terminated, for the purpose of recovering 57319  
rent payments, other than in accordance with an order issued by a 57320  
court of competent jurisdiction. 57321

(C) A park operator who violates this section is liable in a 57322  
civil action for all damages caused to a resident, or to a 57323  
resident whose right to possession has terminated, together with 57324

reasonable attorneys' fees. 57325

**Sec. ~~3733.18~~ 4781.50.** (A) Any security deposit in excess of 57326  
fifty dollars or one month's periodic rent, whichever is greater, 57327  
shall bear interest on the excess at the rate of five per cent per 57328  
annum if the resident remains in possession of the premises for 57329  
six months or more, and shall be computed and paid annually by the 57330  
park operator to the resident. 57331

(B) Upon termination of the rental agreement any property or 57332  
money held by the park operator as a security deposit may be 57333  
applied to the payment of past due rent and to the payment of the 57334  
amount of damages that the park operator has suffered by reason of 57335  
the resident's noncompliance with section ~~3733.101~~ 4781.39 of the 57336  
Revised Code or the rental agreement. Any deduction from the 57337  
security deposit shall be itemized and identified by the park 57338  
operator in a written notice delivered to the resident together 57339  
with the amount due, within thirty days after termination of the 57340  
rental agreement and delivery of possession. The resident shall 57341  
provide the park operator in writing with a forwarding address or 57342  
new address to which the written notice and amount due from the 57343  
park operator may be sent. If the resident fails to provide the 57344  
park operator with the forwarding or new address as required, the 57345  
resident shall not be entitled to damages or attorneys' fees under 57346  
division (C) of this section. 57347

(C) If the park operator fails to comply with division (B) of 57348  
this section, the resident may recover the property and money due 57349  
~~him~~ the resident, together with damages in an amount equal to the 57350  
amount wrongfully withheld, and reasonable attorneys' fees. 57351

**Sec. ~~3733.19~~ 4781.51.** (A) Every written rental agreement for 57352  
residential premises shall contain the name and address of the 57353  
owner of the residential premises and the name and address of the 57354

owner's agent, if any. If the owner or the owner's agent is a 57355  
corporation, partnership, limited partnership, association, trust, 57356  
or other entity, the address shall be the principal place of 57357  
business in the county in which the residential premises are 57358  
situated or if there is no place of business in such county then 57359  
its principal place of business in this state, and shall include 57360  
the name of the person in charge thereof. 57361

(B) If the rental agreement is oral, the park operator, at 57362  
the commencement of the term of occupancy, shall deliver to the 57363  
resident a written notice containing the information required in 57364  
division (A) of this section. 57365

(C) If the park operator fails to provide the notice of the 57366  
name and address of the owner and owner's agent, if any, as 57367  
required under division (A) or (B) of this section, the notices to 57368  
the park operator required under division (A) of sections ~~3733.12~~ 57369  
4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the 57370  
park operator and the operator's agent. 57371

(D) Every written rental agreement for residential premises 57372  
shall contain the following notice in ten-point boldface type: 57373

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK 57374  
OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO 57375  
~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL 57376  
AGREEMENTS IN MANUFACTURED HOME PARKS." 57377

If the rental agreement is oral, the park operator, at the 57378  
commencement of the term of occupancy, shall deliver the notice to 57379  
the resident in writing. 57380

**Sec. ~~3733.20~~ 4781.52.** No municipal corporation may adopt or 57381  
continue in existence any ordinance and no township may adopt or 57382  
continue in existence any resolution that is in conflict with 57383  
sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, 57384

or that regulates those rights and obligations of parties to a 57385  
rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to 57386  
~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to 57387  
~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, 57388  
building, health, or safety codes of any municipal corporation or 57389  
township. 57390

Sec. 4781.54. There is hereby created in the state treasury 57391  
the manufactured homes commission regulatory fund. The fund shall 57392  
consist of fees collected under section 4781.121 of the Revised 57393  
Code and fees paid under section 4781.28 of the Revised Code and 57394  
shall be used for the purposes described in those sections. 57395

**Sec. 4781.99.** (A) Whoever violates division (A) of section 57396  
4781.16 of the Revised Code is guilty of a minor misdemeanor on a 57397  
first offense and shall be subject to a mandatory fine of one 57398  
hundred dollars. On a second offense, the person is guilty of a 57399  
misdemeanor of the first degree and shall be subject to a 57400  
mandatory fine of one thousand dollars. 57401

(B) Whoever violates section 4781.20 of the Revised Code is 57402  
guilty of a minor misdemeanor. 57403

(C) Whoever violates any of the following is guilty of a 57404  
misdemeanor of the fourth degree: 57405

(1) Division (B) or (C) of section 4781.16 of the Revised 57406  
Code; 57407

(2) Section 4781.22 of the Revised Code; 57408

(3) Section 4781.23 of the Revised Code; 57409

(4) Division (A) of section 4781.24 of the Revised Code; 57410

(5) Section 4781.25 of the Revised Code; 57411

(6) Division (A) of section 4781.35 of the Revised Code. 57412

|  |   |
|--|---|
| <b>Sec. 4905.01.</b> As used in this chapter:  | 57413   |
| (A) "Railroad" has the same meaning as in section 4907.02 of the Revised Code.   | 57414<br>57415  |
| (B) " <del>Motor transportation company carrier</del> " has the same meaning as in <del>sections 4905.03 and 4921.02</del> <u>section 4923.01</u> of the Revised Code.   | 57416<br>57417<br>57418   |
| (C) " <del>Trailer</del> <u>Motor vehicle</u> " and "public highway" have the same meanings as in section <del>4921.02</del> <u>4921.01</u> of the Revised Code.   | 57419<br>57420  |
| (D) " <del>Private motor carrier</del> " and " <del>motor vehicle</del> " have the same meanings as in section <del>4923.02</del> of the Revised Code.   | 57421<br>57422  |
| <del>(E)</del> "Ohio coal research and development costs" means all reasonable costs associated with a facility or project undertaken by a public utility for which a recommendation to allow the recovery of costs associated therewith has been made under division (B)(7) of section 1551.33 of the Revised Code, including, but not limited to, capital costs, such as costs of debt and equity; construction and operation costs; termination and retirement costs; costs of feasibility and marketing studies associated with the project; and the acquisition and delivery costs of Ohio coal used in the project, less any expenditures of grant moneys. | 57423<br>57424<br>57425<br>57426<br>57427<br>57428<br>57429<br>57430<br>57431<br>57432<br>57433 |
| <b>Sec. 4905.02.</b> (A) As used in this chapter, "public utility" includes every corporation, company, copartnership, person, or association, the lessees, trustees, or receivers of the foregoing, defined in section 4905.03 of the Revised Code, including any public utility that operates its utility not for profit, except the following:  | 57434<br>57435<br>57436<br>57437<br>57438<br>57439  |
| <del>(A)</del> (1) An electric light company that operates its utility not for profit;   | 57440<br>57441  |

~~(B)~~(2) A public utility, other than a telephone company, that is owned and operated exclusively by and solely for the utility's customers, including any consumer or group of consumers purchasing, delivering, storing, or transporting, or seeking to purchase, deliver, store, or transport, natural gas exclusively by and solely for the consumer's or consumers' own intended use as the end user or end users and not for profit;

~~(C)~~(3) A public utility that is owned or operated by any municipal corporation;

~~(D)~~(4) A railroad as defined in sections 4907.02 and 4907.03 of the Revised Code;

~~(E)~~(5) Any provider, including a telephone company, with respect to its provision of any of the following:

~~(1)~~(a) Advanced services as defined in 47 C.F.R. 51.5;

~~(2)~~(b) Broadband service, however defined or classified by the federal communications commission;

~~(3)~~(c) Information service as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20);

~~(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;

~~(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:

~~(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.

~~(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. 57472

(B)(1) "Public utility" includes a for-hire motor carrier 57473  
even if the carrier is operated in connection with an entity 57474  
described in division (A)(1), (2), (4), or (5) of this section. 57475

(2) Division (A) of this section shall not be construed to 57476  
relieve a private motor carrier, operated in connection with an 57477  
entity described in division (A)(1), (2), (4), or (5) of this 57478  
section, from compliance with any of the following: 57479

(a) Chapter 4923. of the Revised Code; 57480

(b) Hazardous-material regulation under section 4921.15 of 57481  
the Revised Code and division (H) of section 4921.19 of the 57482  
Revised Code, or rules adopted thereunder; 57483

(c) Rules governing unified carrier registration adopted 57484  
under section 4921.11 of the Revised Code. 57485

**Sec. 4905.03.** As used in this chapter+ 57486

~~(A) Any, any~~ person, firm, copartnership, voluntary 57487  
association, joint-stock association, company, or corporation, 57488  
wherever organized or incorporated, is: 57489

~~(1)(A)~~ A telephone company, when engaged in the business of 57490  
transmitting telephonic messages to, from, through, or in this 57491  
state; 57492

~~(2)(B)~~ A for-hire motor ~~transportation company~~ carrier, when 57493  
engaged in the business of ~~carrying and~~ transporting persons or 57494  
property ~~or the business of providing or furnishing such~~ 57495  
~~transportation service, for hire, in or by~~ motor-propelled 57496  
~~vehicles of any kind, including trailers, for the public in~~ 57497  
~~general, over any public street, road, or highway in this state~~ 57498  
vehicle for compensation, except as provided when engaged in any 57499  
of the operations in intrastate commerce described in divisions 57500  
(B)(1) to (9) of section 4921.02 4921.01 of the Revised Code, but 57501

including the carrier's agents, officers, and representatives, as 57502  
well as employees responsible for hiring, supervising, training, 57503  
assigning, or dispatching drivers and employees concerned with the 57504  
installation, inspection, and maintenance of motor-vehicle 57505  
equipment and accessories; 57506

~~(3)~~(C) An electric light company, when engaged in the 57507  
business of supplying electricity for light, heat, or power 57508  
purposes to consumers within this state, including supplying 57509  
electric transmission service for electricity delivered to 57510  
consumers in this state, but excluding a regional transmission 57511  
organization approved by the federal energy regulatory commission; 57512

~~(4)~~(D) A gas company, when engaged in the business of 57513  
supplying artificial gas for lighting, power, or heating purposes 57514  
to consumers within this state or when engaged in the business of 57515  
supplying artificial gas to gas companies or to natural gas 57516  
companies within this state, but a producer engaged in supplying 57517  
to one or more gas or natural gas companies, only such artificial 57518  
gas as is manufactured by that producer as a by-product of some 57519  
other process in which the producer is primarily engaged within 57520  
this state is not thereby a gas company. All rates, rentals, 57521  
tolls, schedules, charges of any kind, or agreements between any 57522  
gas company and any other gas company or any natural gas company 57523  
providing for the supplying of artificial gas and for compensation 57524  
for the same are subject to the jurisdiction of the public 57525  
utilities commission. 57526

~~(5)~~(E) A natural gas company, when engaged in the business of 57527  
supplying natural gas for lighting, power, or heating purposes to 57528  
consumers within this state. Notwithstanding the above, neither 57529  
the delivery nor sale of Ohio-produced natural gas by a producer 57530  
or gatherer under a public utilities commission-ordered exemption, 57531  
adopted before, as to producers, or after, as to producers or 57532  
gatherers, January 1, 1996, or the delivery or sale of 57533

Ohio-produced natural gas by a producer or gatherer of 57534  
Ohio-produced natural gas, either to a lessor under an oil and gas 57535  
lease of the land on which the producer's drilling unit is 57536  
located, or the grantor incident to a right-of-way or easement to 57537  
the producer or gatherer, shall cause the producer or gatherer to 57538  
be a natural gas company for the purposes of this section. 57539

All rates, rentals, tolls, schedules, charges of any kind, or 57540  
agreements between a natural gas company and other natural gas 57541  
companies or gas companies providing for the supply of natural gas 57542  
and for compensation for the same are subject to the jurisdiction 57543  
of the public utilities commission. The commission, upon 57544  
application made to it, may relieve any producer or gatherer of 57545  
natural gas, defined in this section as a gas company or a natural 57546  
gas company, of compliance with the obligations imposed by this 57547  
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 57548  
of the Revised Code, so long as the producer or gatherer is not 57549  
affiliated with or under the control of a gas company or a natural 57550  
gas company engaged in the transportation or distribution of 57551  
natural gas, or so long as the producer or gatherer does not 57552  
engage in the distribution of natural gas to consumers. 57553

Nothing in division ~~(A)(5)~~(E) of this section limits the 57554  
authority of the commission to enforce sections 4905.90 to 4905.96 57555  
of the Revised Code. 57556

~~(6)~~(F) A pipe-line company, when engaged in the business of 57557  
transporting natural gas, oil, or coal or its derivatives through 57558  
pipes or tubing, either wholly or partly within this state; 57559

~~(7)~~(G) A water-works company, when engaged in the business of 57560  
supplying water through pipes or tubing, or in a similar manner, 57561  
to consumers within this state; 57562

~~(8)~~(H) A heating or cooling company, when engaged in the 57563  
business of supplying water, steam, or air through pipes or tubing 57564

to consumers within this state for heating or cooling purposes; 57565

~~(9)~~(I) A messenger company, when engaged in the business of 57566  
supplying messengers for any purpose; 57567

~~(10)~~(J) A street railway company, when engaged in the 57568  
business of operating as a common carrier, a railway, wholly or 57569  
partly within this state, with one or more tracks upon, along, 57570  
above, or below any public road, street, alleyway, or ground, 57571  
within any municipal corporation, operated by any motive power 57572  
other than steam and not a part of an interurban railroad, whether 57573  
the railway is termed street, inclined-plane, elevated, or 57574  
underground railway; 57575

~~(11)~~(K) A suburban railroad company, when engaged in the 57576  
business of operating as a common carrier, whether wholly or 57577  
partially within this state, a part of a street railway 57578  
constructed or extended beyond the limits of a municipal 57579  
corporation, and not a part of an interurban railroad; 57580

~~(12)~~(L) An interurban railroad company, when engaged in the 57581  
business of operating a railroad, wholly or partially within this 57582  
state, with one or more tracks from one municipal corporation or 57583  
point in this state to another municipal corporation or point in 57584  
this state, whether constructed upon the public highways or upon 57585  
private rights-of-way, outside of municipal corporations, using 57586  
electricity or other motive power than steam power for the 57587  
transportation of passengers, packages, express matter, United 57588  
States mail, baggage, and freight. Such an interurban railroad 57589  
company is included in the term "railroad" as used in section 57590  
4907.02 of the Revised Code. 57591

~~(13)~~(M) A sewage disposal system company, when engaged in the 57592  
business of sewage disposal services through pipes or tubing, and 57593  
treatment works, or in a similar manner, within this state. 57594

~~(B) "Motor propelled vehicle" means any automobile,~~ 57595

~~automobile truck, motor bus, or any other self-propelled vehicle~~ 57596  
~~not operated or driven upon fixed rails or tracks.~~ 57597

**Sec. 4905.05.** The jurisdiction, supervision, powers, and 57598  
duties of the public utilities commission extend to every public 57599  
utility and railroad, the plant or property of which lies wholly 57600  
within this state and when the property of a public utility or 57601  
railroad lies partly within and partly without this state to that 57602  
part of such plant or property which lies within this state; to 57603  
the persons or companies owning, leasing, or operating such public 57604  
utilities and railroads; to the records and accounts of the 57605  
business thereof done within this state; and to the records and 57606  
accounts of any companies which are part of an electric utility 57607  
holding company system exempt under section 3(a)(1) or (2) of the 57608  
"Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 57609  
U.S.C. 79c, and the rules and regulations promulgated thereunder, 57610  
insofar as such records and accounts may in any way affect or 57611  
relate to the costs associated with the provision of electric 57612  
utility service by any public utility operating in this state and 57613  
part of such holding company system. 57614

Nothing in this section, or section 4905.06 or 4905.46 of the 57615  
Revised Code pertaining to regulation of holding companies, grants 57616  
the public utilities commission authority to regulate a holding 57617  
company or its subsidiaries which are organized under the laws of 57618  
another state, render no public utility service in the state of 57619  
Ohio, and are regulated as a public utility by the public 57620  
utilities commission of another state or primarily by a federal 57621  
regulatory commission, nor do these grants of authority apply to 57622  
public utilities that are excepted from the definition of "public 57623  
utility" under divisions (A)(1) to ~~(C)~~(3) of section 4905.02 of 57624  
the Revised Code. 57625

**Sec. 4905.06.** The public utilities commission has general 57626

supervision over all public utilities within its jurisdiction as 57627  
defined in section 4905.05 of the Revised Code, and may examine 57628  
such public utilities and keep informed as to their general 57629  
condition, capitalization, and franchises, and as to the manner in 57630  
which their properties are leased, operated, managed, and 57631  
conducted with respect to the adequacy or accommodation afforded 57632  
by their service, the safety and security of the public and their 57633  
employees, and their compliance with all laws, orders of the 57634  
commission, franchises, and charter requirements. The commission 57635  
has general supervision over all other companies referred to in 57636  
section 4905.05 of the Revised Code to the extent of its 57637  
jurisdiction as defined in that section, and may examine such 57638  
companies and keep informed as to their general condition and 57639  
capitalization, and as to the manner in which their properties are 57640  
leased, operated, managed, and conducted with respect to the 57641  
adequacy or accommodation afforded by their service, and their 57642  
compliance with all laws and orders of the commission, insofar as 57643  
any of such matters may relate to the costs associated with the 57644  
provision of electric utility service by public utilities in this 57645  
state which are affiliated or associated with such companies. The 57646  
commission, through the public utilities commissioners or 57647  
inspectors or employees of the commission authorized by it, may 57648  
enter in or upon, for purposes of inspection, any property, 57649  
equipment, building, plant, factory, office, apparatus, machinery, 57650  
device, and lines of any public utility. The power to inspect 57651  
includes the power to prescribe any rule or order that the 57652  
commission finds necessary for protection of the public safety. In 57653  
order to assist the commission in the performance of its duties 57654  
under this chapter, authorized employees of the motor carrier 57655  
enforcement unit, created under section 5503.34 of the Revised 57656  
Code in the division of state highway patrol, of the department of 57657  
public safety may enter in or upon, for inspection purposes, any 57658  
motor vehicle of any ~~motor transportation company or private~~ motor 57659

carrier as defined in section 4923.02 of the Revised Code. 57660

In order to inspect motor vehicles owned or operated by a 57661  
motor ~~transportation company~~ carrier engaged in the transportation 57662  
of persons, authorized employees of the motor carrier enforcement 57663  
unit, division of state highway patrol, of the department of 57664  
public safety may enter in or upon any property of any motor 57665  
~~transportation company, as defined in section 4921.02 of the~~ 57666  
~~Revised Code,~~ carrier engaged in the intrastate transportation of 57667  
persons. 57668

**Sec. 4905.402.** (A) As used in this section: 57669

(1) "Control" means the possession of the power to direct the 57670  
management and policies of a domestic telephone company or a 57671  
holding company of a domestic telephone company, or the management 57672  
and policies of a domestic electric utility or a holding company 57673  
of a domestic electric utility, through the ownership of voting 57674  
securities, by contract, or otherwise, but does not include the 57675  
power that results from holding an official position or the 57676  
possession of corporate office with the domestic company or 57677  
utility or the holding company. Control is presumed to exist if 57678  
any person, directly or indirectly, owns, controls, holds the 57679  
power to vote, or holds with the power to vote proxies that 57680  
constitute, twenty per cent or more of the total voting power of 57681  
the domestic company or utility or the holding company. 57682

(2) "Electric utility" has the same meaning as in section 57683  
4928.07 of the Revised Code. 57684

(3) "Holding company" excludes any securities broker 57685  
performing the usual and customary broker's function. 57686

(4) "Telephone company" means any company described in 57687  
division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a 57688  
public utility under section 4905.02 of the Revised Code and 57689

provides basic local exchange service, as defined in section 57690  
4927.01 of the Revised Code. 57691

(B) No person shall acquire control, directly or indirectly, 57692  
of a domestic telephone company or a holding company controlling a 57693  
domestic telephone company or of a domestic electric utility or a 57694  
holding company controlling a domestic electric utility unless 57695  
that person obtains the prior approval of the public utilities 57696  
commission under this section. To obtain approval the person shall 57697  
file an application with the commission demonstrating that the 57698  
acquisition will promote public convenience and result in the 57699  
provision of adequate service for a reasonable rate, rental, toll, 57700  
or charge. The application shall contain such information as the 57701  
commission may require. If the commission considers a hearing 57702  
necessary, it may fix a time and place for hearing. If, after 57703  
review of the application and after any necessary hearing, the 57704  
commission is satisfied that approval of the application will 57705  
promote public convenience and result in the provision of adequate 57706  
service for a reasonable rate, rental, toll, or charge, the 57707  
commission shall approve the application and make such order as it 57708  
considers proper. If the commission fails to issue an order within 57709  
thirty days of the filing of the application, or within twenty 57710  
days of the conclusion of a hearing, if one is held, the 57711  
application shall be deemed approved by operation of law. 57712

(C) No domestic telephone company shall merge with another 57713  
domestic telephone company unless the merging companies obtain the 57714  
prior approval of the commission. An application seeking such 57715  
approval shall be filed, processed, and decided in the manner 57716  
provided for an application under division (B) of this section. 57717

(D) The commission shall adopt such rules as it finds 57718  
necessary to carry out the provisions of this section. 57719

(E) If it appears to the commission or to any person that may 57720  
be adversely affected that any person is engaged in or about to 57721

engage in any acts or practices that would violate division (B) or 57722  
(C) of this section or any provision of a rule adopted under this 57723  
section, the attorney general, when directed to do so by the 57724  
commission, or the person claiming to be adversely affected may 57725  
bring an action in any court of common pleas that has jurisdiction 57726  
and venue to enjoin such acts or practices and enforce compliance. 57727  
Upon a proper showing, the court shall grant, without bond, a 57728  
restraining order or temporary or permanent injunction. 57729

(F) The courts of this state have jurisdiction over every 57730  
person not a resident of or domiciled or authorized to do business 57731  
in this state that files, or is prohibited from acting without 57732  
first filing, an application under division (B) or (C) of this 57733  
section, and over all actions involving such person arising out of 57734  
violations of any provision of this section or of a rule adopted 57735  
under this section. The secretary of state shall be the agent for 57736  
service of process for any such person in any action, suit, or 57737  
proceeding arising out of such violations. Copies of all such 57738  
lawful process shall be served upon the secretary of state and 57739  
transmitted by certified mail, with return receipt requested, by 57740  
the secretary of state to such person at the person's last known 57741  
address. 57742

**Sec. 4905.54.** Every public utility or railroad and every 57743  
officer of a public utility or railroad shall comply with every 57744  
order, direction, and requirement of the public utilities 57745  
commission made under authority of this chapter and Chapters 57746  
4901., 4903., 4907., and 4909., ~~4921., and 4923.~~ of the Revised 57747  
Code, so long as they remain in force. Except as otherwise 57748  
specifically provided in ~~sections 4905.83,~~ section 4905.95, 57749  
~~4919.99, 4921.99, and 4923.99~~ of the Revised Code, the public 57750  
utilities commission may assess a forfeiture of not more than ten 57751  
thousand dollars for each violation or failure against a public 57752  
utility or railroad that violates a provision of those chapters or 57753

that after due notice fails to comply with an order, direction, or 57754  
requirement of the commission that was officially promulgated. 57755  
Each day's continuance of the violation or failure is a separate 57756  
offense. All forfeitures collected under this section shall be 57757  
credited to the general revenue fund. 57758

**Sec. 4905.57.** Except as otherwise specifically provided in 57759  
sections ~~4905.83~~, 4905.96, ~~4919.99~~, ~~4921.99~~, and 4923.99 of the 57760  
Revised Code, actions to recover forfeitures provided for in this 57761  
chapter and Chapters 4901., 4903., 4907., 4909., ~~4921.~~ and 4923. 57762  
of the Revised Code shall be prosecuted in the name of the state 57763  
and may be brought in the court of common pleas of any county in 57764  
which the public utility ~~or~~, railroad, or motor carrier is 57765  
located. Such actions shall be commenced and prosecuted by the 57766  
attorney general when ~~he~~ the attorney general is directed to do so 57767  
by the public utilities commission. Moneys recovered by such 57768  
actions shall be deposited in the state treasury to the credit of 57769  
the general revenue fund. 57770

**Sec. 4905.58.** All prosecutions against a railroad or an 57771  
officer, agent, or employee thereof, under Chapters 4901., 4903., 57772  
4905., 4907., and 4909., ~~4921., and 4923.~~ and other sections of 57773  
the Revised Code for penalties involving imprisonment shall be by 57774  
indictment. 57775

**Sec. 4905.80.** The policy of this state is to: 57776

(A) Regulate transportation by motor carriers so as to 57777  
recognize and preserve the inherent advantages of, and foster safe 57778  
conditions in, that transportation and among those carriers in the 57779  
public interest; 57780

(B) Promote safe and secure service by motor carriers, 57781  
without unjust discriminations, undue preferences or advantages, 57782  
and unfair or destructive competitive practices; 57783

|   |       |
|---|-------|
| <u>(C) Improve the relations between, and coordinate</u>                  | 57784 |
| <u>transportation by and regulation of, motor carriers and other</u>      | 57785 |
| <u>carriers;</u>  | 57786 |
| <u>(D) Develop and preserve a highway transportation system</u>           | 57787 |
| <u>properly adapted to the needs of commerce and the state;</u>           | 57788 |
| <u>(E) Cooperate with the federal government and the several</u>          | 57789 |
| <u>states, and the authorized officials thereof, and with any</u>         | 57790 |
| <u>organization of motor carriers in the administration and</u>           | 57791 |
| <u>enforcement of this chapter and Chapters 4901., 4903., 4907.,</u>      | 57792 |
| <u>4909., 4921., and 4923. of the Revised Code.</u>                       | 57793 |
| <u>Sec. 4905.81. The public utilities commission shall:</u>               | 57794 |
| <u>(A) Supervise and regulate each motor carrier;</u>                     | 57795 |
| <u>(B) Regulate the safety of operation of each motor carrier;</u>        | 57796 |
| <u>(C) Adopt reasonable safety rules applicable to the highway</u>        | 57797 |
| <u>transportation of persons or property in interstate and intrastate</u> | 57798 |
| <u>commerce by motor carriers;</u>  | 57799 |
| <u>(D) Adopt safety rules applicable to the transportation and</u>        | 57800 |
| <u>offering for transportation of hazardous materials in interstate</u>   | 57801 |
| <u>and intrastate commerce by motor carriers. The rules shall not be</u>  | 57802 |
| <u>incompatible with the requirements of the United States department</u> | 57803 |
| <u>of transportation.</u>   | 57804 |
| <u>(E) Require the filing of reports and other data by motor</u>          | 57805 |
| <u>carriers;</u>  | 57806 |
| <u>(F) Adopt reasonable rules for the administration and</u>              | 57807 |
| <u>enforcement of this chapter and Chapters 4901., 4903., 4907.,</u>      | 57808 |
| <u>4909., 4921., and 4923. of the Revised Code applying to each motor</u> | 57809 |
| <u>carrier in this state;</u>   | 57810 |
| <u>(G) Supervise and regulate motor carriers in all other</u>             | 57811 |
| <u>matters affecting the relationship between those carriers and the</u>  | 57812 |

public to the exclusion of all local authorities, except as 57813  
provided in this section. The commission, in the exercise of the 57814  
jurisdiction conferred upon it by this chapter and Chapters 4901., 57815  
4903., 4907., 4909., 4921., and 4923. of the Revised Code, may 57816  
adopt rules affecting motor carriers, notwithstanding the 57817  
provisions of any ordinance, resolution, license, or permit 57818  
enacted, adopted, or granted by any township, municipal 57819  
corporation, municipal corporation and county, or county. In case 57820  
of conflict between any such ordinance, resolution, license, or 57821  
permit, the order or rule of the commission shall prevail. Local 57822  
subdivisions may adopt reasonable local police rules within their 57823  
respective boundaries not inconsistent with those chapters and 57824  
rules adopted under them. 57825

The commission has jurisdiction to receive, hear, and 57826  
determine as a question of fact, upon complaint of any party or 57827  
upon its own motion, and upon not less than fifteen days' notice 57828  
of the time and place of the hearing and the matter to be heard, 57829  
whether any corporation, company, association, joint-stock 57830  
association, person, firm, or copartnership, or their lessees, 57831  
legal or personal representatives, trustees, or receivers or 57832  
trustees appointed by any court, is engaged as a motor carrier. 57833  
The finding of the commission on such a question is a final order 57834  
that may be reviewed as provided in section 4923.15 of the Revised 57835  
Code. 57836

**Sec. 4905.84.** (A) As used in this section: 57837

(1) "Telecommunications relay service" means intrastate 57838  
transmission services that provide the ability for an individual 57839  
who has a hearing or speech impairment to engage in a 57840  
communication by wire or radio with a hearing individual in a 57841  
manner that is functionally equivalent to the ability of an 57842  
individual who does not have a hearing or speech impairment to 57843

communicate using voice communication services by wire or radio. 57844  
"Telecommunications relay service" includes services that enable 57845  
two-way communication between an individual who uses a 57846  
telecommunications device for the deaf or other nonvoice terminal 57847  
device and an individual who does not use such a device. 57848

(2) "TRS provider" means an entity selected by the public 57849  
utilities commission as the provider of telecommunications relay 57850  
service for this state as part of the commission's intrastate 57851  
telecommunications relay service program certified pursuant to 57852  
federal law. 57853

(B) For the sole purpose of funding telecommunications relay 57854  
service, the commission shall, not earlier than January 1, 2009, 57855  
impose on and collect from each service provider that is required 57856  
under federal law to provide its customers access to 57857  
telecommunications relay service an annual assessment to pay for 57858  
costs incurred by the TRS provider for providing such service in 57859  
Ohio. The commission shall determine the appropriate service 57860  
providers to be assessed the telecommunications relay service 57861  
costs, including telephone companies as defined in division (A)~~(1)~~ 57862  
of section 4905.03 of the Revised Code, commercial mobile radio 57863  
service providers, and providers of advanced services or internet 57864  
protocol-enabled services that are competitive with or 57865  
functionally equivalent to basic local exchange service as defined 57866  
in section 4927.01 of the Revised Code. 57867

(C) The assessment shall be allocated proportionately among 57868  
the appropriate service providers using a competitively neutral 57869  
formula established by the commission based on the number of 57870  
retail intrastate customer access lines or their equivalent. The 57871  
commission shall annually reconcile the funds collected with the 57872  
actual costs of providing telecommunications relay service when it 57873  
issues the assessment and shall either proportionately charge the 57874  
service providers for any amounts not sufficient to cover the 57875

actual costs or proportionately credit amounts collected in excess 57876  
of the actual costs. The total amount assessed from all service 57877  
providers shall not exceed the total telecommunications relay 57878  
service costs. 57879

Each service provider that pays the assessment shall be 57880  
permitted to recover the cost of the assessment. The method of 57881  
recovery may include, but is not limited to, a customer billing 57882  
surcharge. 57883

The commission shall deposit the money collected in the 57884  
telecommunications relay service fund, which is hereby created in 57885  
the state treasury, and shall use the money in that fund solely to 57886  
compensate the TRS provider. 57887

(D) The commission shall take such measures as it considers 57888  
necessary to protect the confidentiality of information provided 57889  
to the commission pursuant to this section by service providers 57890  
required to pay the assessment. 57891

(E) The commission may assess a forfeiture of not more than 57892  
one thousand dollars on any service provider failing to comply 57893  
with this section. Each day's continuance of such failure is a 57894  
separate offense. The forfeiture shall be recovered in accordance 57895  
with sections 4905.55 to 4905.60 of the Revised Code. 57896

(F) The jurisdiction and authority granted to the commission 57897  
by this section is limited to the administration and enforcement 57898  
of this section. The commission may adopt such rules as it finds 57899  
necessary to carry out this section. The commission shall adopt 57900  
rules under section 111.15 of the Revised Code to establish the 57901  
assessment amounts and procedures. 57902

**Sec. 4905.90.** As used in sections 4905.90 to 4905.96 of the 57903  
Revised Code: 57904

(A) "Contiguous property" includes, but is not limited to, a 57905

manufactured home park as defined in section ~~3733.01~~ 4781.01 of 57906  
the Revised Code; a public or publicly subsidized housing project; 57907  
an apartment complex; a condominium complex; a college or 57908  
university; an office complex; a shopping center; a hotel; an 57909  
industrial park; and a race track. 57910

(B) "Gas" means natural gas, flammable gas, or gas which is 57911  
toxic or corrosive. 57912

(C) "Gathering lines" and the "gathering of gas" have the 57913  
same meaning as in the Natural Gas Pipeline Safety Act and the 57914  
rules adopted by the United States department of transportation 57915  
pursuant to the Natural Gas Pipeline Safety Act, including 49 57916  
C.F.R. part 192, as amended. 57917

(D) "Intrastate pipe-line transportation" has the same 57918  
meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 57919  
amended, but excludes the gathering of gas exempted by the Natural 57920  
Gas Pipeline Safety Act. 57921

(E) "Master-meter system" means a pipe-line system that 57922  
distributes gas within a contiguous property for which the system 57923  
operator purchases gas for resale to consumers, including tenants. 57924  
Such pipe-line system supplies consumers who purchase the gas 57925  
directly through a meter, or by paying rent, or by other means. 57926  
The term includes a master-meter system as defined in 49 C.F.R. 57927  
191.3, as amended. The term excludes a pipeline within a 57928  
manufactured home, mobile home, or a building. 57929

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 57930  
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 57931  
et seq., as amended. 57932

(G) "Operator" means any of the following: 57933

(1) A gas company or natural gas company as defined in 57934  
section 4905.03 of the Revised Code, except that division 57935  
~~(A)-(5)-(E)~~ of that section does not authorize the public utilities 57936

commission to relieve any producer of gas, as a gas company or 57937  
natural gas company, of compliance with sections 4905.90 to 57938  
4905.96 of the Revised Code or the pipe-line safety code created 57939  
under section 4905.91 of the Revised Code; 57940

(2) A pipe-line company, as defined in section 4905.03 of the 57941  
Revised Code, when engaged in the business of transporting gas by 57942  
pipeline; 57943

(3) A public utility that is excepted from the definition of 57944  
"public utility" under division ~~(B)~~(A)(2) or ~~(C)~~(3) of section 57945  
4905.02 of the Revised Code, when engaged in supplying or 57946  
transporting gas by pipeline within this state; 57947

(4) Any person that owns, operates, manages, controls, or 57948  
leases any of the following: 57949

(a) Intrastate pipe-line transportation facilities within 57950  
this state; 57951

(b) Gas gathering lines within this state which are not 57952  
exempted by the Natural Gas Pipeline Safety Act; 57953

(c) A master-meter system within this state. 57954

"Operator" does not include an ultimate consumer who owns a 57955  
service line, as defined in 49 C.F.R. 192.3, as amended, on the 57956  
real property of that ultimate consumer. 57957

(H) "Operator of a master-meter system" means a person 57958  
described under division ~~(F)~~(G)(4)(c) of this section. An operator 57959  
of a master-meter system is not a public utility under section 57960  
4905.02 or a gas or natural gas company under section 4905.03 of 57961  
the Revised Code. 57962

(I) "Person" means: 57963

(1) In addition to those defined in division (C) of section 57964  
1.59 of the Revised Code, a joint venture or a municipal 57965  
corporation; 57966

(2) Any trustee, receiver, assignee, or personal representative of persons defined in division ~~(H)~~(I)(1) of this section. 57967  
57968  
57969

(J) "Safety audit" means the public utilities commission's audit of the premises, pipe-line facilities, and the records, maps, and other relevant documents of a master-meter system to determine the operator's compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. 57970  
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(K) "Safety inspection" means any inspection, survey, or testing of a master-meter system which is authorized or required by sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. The term includes, but is not limited to, leak surveys, inspection of regulators and critical valves, and monitoring of cathodic protection systems, where applicable. 57975  
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(L) "Safety-related condition" means any safety-related condition defined in 49 C.F.R. 191.23, as amended. 57981  
57982

(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: 57983  
57984  
57985

(1) Residential sales; 57986

(2) Commercial and industrial sales; 57987

(3) Other sales to public authorities; 57988

(4) Interdepartmental sales; 57989

(5) Sales for resale; 57990

(6) Transportation of gas. 57991

**Sec. 4907.01.** As used in sections 4907.01 to 4907.63 of the Revised Code: 57992  
57993

(A) "Public utility" has the same meaning as in section 4905.02 of the Revised Code. 57994  
57995

(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., 4909., ~~4921., 4923.,~~ and 4959. of the Revised Code, "railroad" includes any corporation, company, individual, or association of individuals, or its lessees, trustees, or receivers appointed by a court, which owns, operates, manages, or controls a railroad or part of a railroad as a common carrier in this state, or which owns, operates, manages, or controls any cars or other equipment used on such a railroad, or which owns, operates, manages, or controls any bridges, terminals, union depots, sidetracks, docks, wharves, or storage elevators used in connection with such a railroad, whether owned by such railroad or otherwise, and means and includes express companies, water transportation companies, freight-line companies, sleeping car companies, and interurban railroad companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state. All duties required of, and penalties imposed upon, a railroad or an officer or agent thereof insofar as they are applicable, are required and imposed upon express companies, water transportation companies, and interurban railroad companies, and upon their officers and agents.

The public utilities commission has the power of supervision and control of express companies, water transportation companies, and interurban railroad companies to the same extent as railroads.

**Sec. 4907.04.** Chapters 4901., 4903., 4905., 4907., and 4909.~~7~~ 58027  
~~4921., 4923., and 4925.~~ of the Revised Code do not apply to street 58028  
and electric railways engaged solely in the transportation of 58029  
passengers within the limits of cities, or to other private 58030  
railroads not doing business as common carriers. 58031

**Sec. 4907.08.** The public utilities commission shall inquire 58032  
into any neglect or violation of the laws of this state by a 58033  
railroad doing business in this state, by its officers, agents, or 58034  
employees, or by any person operating a railroad. The commission 58035  
shall enforce Chapters 4901., 4903., 4905., 4907., 4909., ~~4921.,~~ 58036  
~~4923.,~~ and 4959. of the Revised Code, as well as all other laws 58037  
relating to railroads, and report violations thereof to the 58038  
attorney general. 58039

If, upon complaint or otherwise, the commission has reason to 58040  
believe that a railroad or any officer, agent, or employee of a 58041  
railroad has violated or is violating any law of this state, or if 58042  
it has reason to believe that differences have arisen between 58043  
citizens of the state and any railroad operating as a common 58044  
carrier within this state, it shall examine into the matter. 58045

**Sec. 4907.19.** The public utilities commission shall cause 58046  
blank forms to be prepared suitable for the purposes designated in 58047  
Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and~~ 58048  
~~4925.~~ of the Revised Code which shall conform as nearly as 58049  
practicable to the forms prescribed by the interstate commerce 58050  
commission, and, when necessary, furnish such blank forms to each 58051  
railroad. 58052

**Sec. 4907.28.** No railroad shall charge, demand, collect, or 58053  
receive a greater or less compensation for the transportation of 58054  
passengers or property, or for any service in connection 58055

therewith, than is specified in the printed schedules referred to 58056  
in sections 4907.25 to 4907.27, ~~inclusive,~~ of the Revised Code, 58057  
including schedules of joint rates, as being then in force. The 58058  
rates, fares, and charges named in such schedules shall be the 58059  
lawful rates, fares, and charges until they are changed as 58060  
provided in Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921.,~~ 58061  
~~4923., and 4925.~~ of the Revised Code. 58062

**Sec. 4907.35.** If a railroad, or an agent or officer of a 58063  
railroad, by special rate, rebate, drawback, or by means of false 58064  
billing, false classification, false weighing, or other device, 58065  
charges, demands, collects, or receives, either directly or 58066  
indirectly, from any person, firm, or corporation, a greater or 58067  
less compensation for service rendered or to be rendered by such 58068  
railroad for the transportation of persons or property or any 58069  
service in connection therewith, than that prescribed in the 58070  
published tariffs then in force, or established as provided in 58071  
Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and~~ 58072  
~~4925.~~ of the Revised Code, or a greater or less compensation than 58073  
it charges, demands, collects, or receives from any other person, 58074  
firm, or corporation for a like and contemporaneous service in the 58075  
transportation of a like kind of traffic, under substantially 58076  
similar circumstances and conditions, the railroad is guilty of 58077  
unjust discrimination, which is hereby prohibited. Upon conviction 58078  
of unjust discrimination, such railroad shall forfeit and pay into 58079  
the state treasury not less than one hundred nor more than five 58080  
thousand dollars for each offense. 58081

No agent or officer of a railroad shall violate this section. 58082

**Sec. 4907.37.** No common carrier subject to Chapters 4901., 58083  
4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 58084  
Revised Code shall make or give undue or unreasonable preference 58085  
or advantage to a particular person, company, firm, corporation, 58086

or locality, or to any particular description of traffic, or 58087  
subject any particular person, company, firm, corporation, or 58088  
locality, or any particular description of traffic, to any undue 58089  
or unreasonable prejudice or disadvantage in any respect. 58090

**Sec. 4907.43.** When the tracks of a railroad and the tracks of 58091  
an interurban or suburban railway cross, connect, or intersect, 58092  
and such tracks are of the same gauge, the companies owning such 58093  
railroads may connect such tracks so as to admit the passage of 58094  
cars from one to the other with facility. 58095

If any such railroads fail to make such connection, upon 58096  
complaint of any party authorized by Chapters 4901., 4903., 4905., 58097  
4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code to 58098  
file complaint, the public utilities commission shall proceed to 58099  
hear and determine the same in a manner provided for making 58100  
investigations upon complaint. 58101

If upon such hearing the commission finds that it is 58102  
practicable and reasonably necessary to ~~accommodate~~ accommodate the 58103  
public, to connect such tracks and that when so connected it will 58104  
be practicable to transport cars over such railroad without 58105  
endangering the equipment, tracks, or appliances of either 58106  
company, the commission shall make an order requiring such 58107  
railroads to make connection. Such order shall describe the terms 58108  
and conditions and shall apportion the cost of making such 58109  
connection between the railroads. 58110

When such connection is made, the railroads parties to it, 58111  
according to their respective powers, shall afford all reasonable 58112  
and proper facilities for the interchange of traffic between their 58113  
respective lines for forwarding and delivering passengers and 58114  
property, and without unreasonable delay or discrimination shall 58115  
transfer, switch, and deliver freight or passenger cars destine to 58116  
a point on its own or connecting lines. Precedence may be given to 58117

livestock and perishable freight over other freight. Whenever a 58118  
derailing device is required at the intersection of any railroads 58119  
mentioned in this section, it shall be installed, maintained, and 58120  
operated as required by the commission, which may prescribe the 58121  
necessary rules and regulations for such operation, and designate 58122  
the companies that shall be responsible for the operation of such 58123  
derailing device. 58124

**Sec. 4907.49.** When two or more railroads cross a public 58125  
highway or street at a dangerous crossing, the expenses incurred 58126  
in the erection and maintenance of gates, bells, or other devices, 58127  
and of necessary gatekeepers or ~~flagmen~~ flaggers, and apportioned 58128  
by the public utilities commission as railroad expense, shall be 58129  
shared equally by the railroads. 58130

Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 58131  
~~4923.~~ of the Revised Code do not prevent the use of automatic 58132  
bells or other mechanical devices by a railroad at a public 58133  
crossing not declared dangerous by the public utilities 58134  
commission, nor do they prevent state, county, township, or 58135  
municipal officials from entering into an agreement with a 58136  
railroad to pay all or part of the expense of erecting a warning 58137  
device. Any funds levied and made available for highways or street 58138  
purposes may be used to pay the public share of the cost under 58139  
such an agreement. If a gate is erected or a ~~flagman~~ flagger is 58140  
stationed and maintained by a railroad, either alone or pursuant 58141  
to such an agreement, the gate or ~~flagman~~ flagger shall not be 58142  
abandoned nor an automatic bell or other mechanical device 58143  
substituted for the gate or ~~flagman~~ flagger, unless the commission 58144  
consents to the abandonment or substitution. 58145

**Sec. 4907.57.** All claims, charges, or demands against a 58146  
railroad for loss of or damage to property occurring while in the 58147  
custody of such railroad and unreasonable delay in transportation 58148

and delivery, for overcharges upon a shipment, or for any other 58149  
service in violation of Chapters 4901., 4903., 4905., 4907., and 58150  
4909., ~~4921., 4923., and 4925.~~ of the Revised Code, if not paid 58151  
within sixty days from the date of the filing thereof with such 58152  
railroad, may be submitted to the public utilities commission by a 58153  
formal complaint. Such complaint shall be made upon blank forms 58154  
which the commission shall provide upon demand of the claimant. 58155

Such complaint shall be verified as petitions in civil 58156  
actions and may be accompanied by the sworn statements of any 58157  
witnesses who have knowledge of any fact material to the inquiry. 58158  
Upon the filing of such complaint the commission shall forthwith 58159  
cite the railroad to answer the complaint, and the citation shall 58160  
be accompanied with a brief statement of the claim. The answer of 58161  
the railroad shall be filed within three weeks from the service of 58162  
the citation and shall be verified as answers in civil cases, and 58163  
may be accompanied with the affidavits of any witnesses having 58164  
knowledge of facts material to the inquiry. 58165

The burden of proof shall be upon the railroad to show that 58166  
loss or damage to property was not due to its negligence. The 58167  
railroad to which property is delivered for shipment shall prima 58168  
facie be liable for loss or damage occurring to such property in 58169  
transit notwithstanding such property may be delivered to other 58170  
railroads before reaching its destination. The claim referred to 58171  
in this section for loss of or damage to property may be made to 58172  
any carrier over whose lines the lost or damaged property was 58173  
consigned, and such claimant may at ~~his~~ the claimant's option join 58174  
all of such railroads as parties defendant in ~~his~~ the complaint 58175  
before said commission. The railroad shall furnish the claimant 58176  
with a copy of its answer and affidavits, and within two weeks 58177  
from the filing of such answers the claimant may file ~~his~~ a reply, 58178  
with affidavits in support thereof, verified as replies in civil 58179  
cases. At the expiration of said period of two weeks the 58180

commission shall proceed summarily to examine the complaint, 58181  
answer, reply, and affidavits, and shall determine the existence 58182  
and validity of the claim presented. If the commission finds in 58183  
favor of the claimant it shall certify its findings to the clerk 58184  
of the court of common pleas of the county in which the claimant 58185  
resides or where the railroad or any of its offices is maintained. 58186

**Sec. 4907.59.** Upon request of the public utilities 58187  
commission, the attorney general or the prosecuting attorney of 58188  
the proper county shall aid in an investigation, prosecution, 58189  
hearing, or trial had under Chapters 4901., 4903., 4905., 4907., 58190  
and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code, and shall 58191  
institute and prosecute necessary actions or proceedings for the 58192  
enforcement of such chapters and of other laws of this state 58193  
relating to railroads, and for the punishment of all violations of 58194  
such chapters and such other laws. 58195

**Sec. 4907.60.** If a railroad fails to perform a duty enjoined 58196  
upon it by Chapter 4901., 4903., 4905., 4907., 4909., ~~4921.,~~ 58197  
~~4923.,~~ or 4959. of the Revised Code, or does any act prohibited by 58198  
any of those chapters, for which failure or act no penalty or 58199  
forfeiture has been provided by law, or fails to obey a lawful 58200  
requirement or order made by the public utilities commission or 58201  
order of any court upon application of the commission, the 58202  
railroad, except as otherwise specifically provided in ~~sections~~ 58203  
~~4905.83,~~ section 4905.95, ~~4919.99, 4921.99, and 4923.99~~ of the 58204  
Revised Code, shall forfeit into the state treasury not less than 58205  
one hundred nor more than ten thousand dollars for each violation 58206  
or failure. In construing and enforcing this section, the act, 58207  
omission, or failure of any officer, agent, or other person acting 58208  
for or employed by a railroad, while acting within the scope of 58209  
the officer's, agent's, or other person's employment, is the act, 58210  
omission, or failure of the railroad. 58211

**Sec. 4907.61.** Except as otherwise specifically provided in 58212  
sections ~~4905.83~~, 4905.96, ~~4919.99~~, ~~4921.99~~, and 4923.99 of the 58213  
Revised Code, when the attorney general prosecutes an action for 58214  
the recovery of a forfeiture provided for in Chapter 4901., 4903., 58215  
4905., 4907., 4909., 4921., 4923., or 4959. of the Revised Code, 58216  
the attorney general may bring the action in the court of common 58217  
pleas of Franklin county or of any county having jurisdiction of 58218  
the defendant. 58219

**Sec. 4907.62.** If a railroad does, causes, or permits anything 58220  
prohibited by Chapters 4901., 4903., 4905., 4907., and 4909. 58221  
~~4921., 4923., and 4925.~~ of the Revised Code to be done, or omits 58222  
doing anything required to be done by such chapters, such railroad 58223  
is liable to the person, firm, or corporation injured thereby in 58224  
treble the amount of damages sustained in consequence of such 58225  
violation or omission. A recovery provided by this section shall 58226  
not affect a recovery by the state of the penalty prescribed for 58227  
such violation. 58228

**Sec. 4909.01.** As used in this chapter: 58229

(A) "Public utility" has the same meaning as in section 58230  
4905.02 of the Revised Code. 58231

(B) "Electric light company," "gas company," "natural gas 58232  
company," "pipeline company," "water-works company," "sewage 58233  
disposal system company," and "street railway company" have the 58234  
same meanings as in section 4905.03 of the Revised Code. 58235

(C) "Railroad" has the same meaning as in section 4907.02 of 58236  
the Revised Code. 58237

(D) "~~Motor transportation company~~ For-hire motor carrier" has 58238  
the same meaning as in ~~sections 4905.03 and 4921.02~~ section 58239  
4921.01 of the Revised Code. 58240

**Sec. 4909.02.** All regulations, practices, and service of 58241  
railroad companies prescribed by the public utilities commission 58242  
shall be in force and be prima-facie reasonable, unless suspended 58243  
or found otherwise in an action brought for that purpose pursuant 58244  
to Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 58245  
~~4923.~~ of the Revised Code, or until changed or modified by the 58246  
commission. 58247

**Sec. 4909.03.** All rates, fares, charges, classifications, and 58248  
joint rates of railroad companies fixed by the public utilities 58249  
commission shall be in force and be prima-facie lawful for two 58250  
years from the day they take effect, or until changed or modified 58251  
by the commission or by an order of a competent court in an action 58252  
under Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 58253  
~~4923.~~ of the Revised Code. 58254

**Sec. 4909.17.** No rate, joint rate, toll, classification, 58255  
charge, or rental, no change in any rate, joint rate, toll, 58256  
classification, charge, or rental, and no regulation or practice 58257  
affecting any rate, joint rate, toll, classification, charge, or 58258  
rental of a public utility shall become effective until the public 58259  
utilities commission, by order, determines it to be just and 58260  
reasonable, except as provided in this section and sections 58261  
4909.18, 4909.19, and 4909.191 of the Revised Code. Such sections 58262  
do not apply to any rate, joint rate, toll, classification, 58263  
charge, or rental, or any regulation or practice affecting the 58264  
same, of railroads, street and electric railways, for-hire motor 58265  
~~transportation companies~~ carriers, and pipe line companies. 58266

**Sec. 4909.22.** When passengers or property are transported 58267  
over two or more connecting railroads between points in this 58268  
state, and the railroad companies have made joint rates for the 58269  
transportation of such passengers or property, such rates and all 58270

charges in connection therewith shall be just and reasonable. 58271  
Every unjust and unreasonable charge is prohibited. A less charge 58272  
by each of such railroads for its proportion of such joint rates 58273  
than is made locally between the same points on their respective 58274  
lines is not for that reason a violation of Chapters 4901., 4903., 58275  
4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised 58276  
Code and does not render such railroads liable to any of the 58277  
penalties in such chapters. 58278

**Sec. 4909.24.** Upon complaint of a person, firm, corporation, 58279  
or association, of a mercantile, agricultural, or manufacturing 58280  
society, or of a body politic or municipal organization, that any 58281  
of the rates, fares, charges, or classifications, or any joint 58282  
rates are in any respect unreasonable or unjustly discriminatory, 58283  
or that any regulation or practice, affecting the transportation 58284  
of persons or property, or any service in connection therewith, 58285  
are in any respect unreasonable or unjustly discriminatory, or 58286  
that any service is inadequate, the public utilities commission 58287  
may notify the railroad complained of that complaint has been 58288  
made, and ten days after such notice proceed to investigate such 58289  
charges as provided in Chapters 4901., 4903., 4905., 4907., and 58290  
4909., ~~4921., 4923., and 4925.~~ of the Revised Code. Before making 58291  
such investigation, the commission shall give the railroad and the 58292  
complainants ten days' notice of the time and place such matters 58293  
will be considered and determined, and such parties are entitled 58294  
to be heard and to have process to enforce the attendance of 58295  
witnesses. 58296

A railroad may make complaint with like effect as though made 58297  
by any person, firm, corporation, or association, ~~mercantile~~ 58298  
mercantile, agricultural, or manufacturing society, body politic, 58299  
or municipal organization. 58300

**Sec. 4909.28.** If, upon an investigation under Chapters 4901., 58301

4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 58302  
Revised Code, the public utilities commission finds that any 58303  
existing rate, fare, charge, or classification, any joint rate, or 58304  
any regulation or practice affecting the transportation of persons 58305  
or property, or service in connection therewith, is unreasonable 58306  
or unjustly discriminatory, or that any service is inadequate, it 58307  
shall determine and by order fix a reasonable rate, fare, charge, 58308  
classification, joint rate, regulation, practice, or service to be 58309  
imposed, observed, and followed in the future, in place of that so 58310  
found to be unreasonable, unjustly discriminatory, or inadequate. 58311  
A certified copy of each such order shall be delivered to an 58312  
officer or station agent of the railroad affected, and such order 58313  
shall of its own force take effect and become operative thirty 58314  
days after service. 58315

All railroads to which such order applies shall make such 58316  
changes in their schedules on file as are necessary to conform to 58317  
such order, and no change shall thereafter be made by any railroad 58318  
in any such rate, fare, or charge, or in any joint rate, without 58319  
the approval of the commission. 58320

**Sec. 4911.01.** As used in this chapter: 58321

(A) "Public utility" means every one as defined in divisions 58322  
(A)~~(1), (3), (4), (5), (6), (7), (8),~~ (C), (D), (E), (F), (G), 58323  
(H), and ~~(13)~~(M) of section 4905.03 of the Revised Code, including 58324  
all public utilities that operate their utilities not for profit, 58325  
except the following: 58326

(1) Electric light companies that operate their utilities not 58327  
for profit; 58328

(2) Public utilities, other than telephone companies, that 58329  
are owned and operated exclusively by and solely for the 58330  
utilities' customers; 58331

|   |                                  |
|---|----------------------------------|
| (3) Public utilities that are owned or operated by any municipal corporation;   | 58332<br>58333                   |
| (4) Railroads as defined in sections 4907.02 and 4907.03 of the Revised Code.   | 58334<br>58335                   |
| (B) "Residential consumer" means urban, suburban, and rural patrons of public utilities insofar as their needs for utility services are limited to their residence.   | 58336<br>58337<br>58338          |
| <b><u>Sec. 4921.01.</u></b> As used in this chapter:  | 58339                            |
| <u>(A) "Ambulance" has the same meaning as in section 4766.01 of the Revised Code.</u>  | 58340<br>58341                   |
| <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> | 58342<br>58343<br>58344<br>58345 |
| <u>(1) The transportation of persons in taxicabs in the usual taxicab service;</u>  | 58346<br>58347                   |
| <u>(2) The transportation of pupils in school busses operating to or from school sessions or school events;</u>   | 58348<br>58349                   |
| <u>(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;</u>  | 58350<br>58351                   |
| <u>(4) The distribution of newspapers;</u>  | 58352                            |
| <u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u>   | 58353<br>58354                   |
| <u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u>  | 58355<br>58356                   |
| <u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u>  | 58357<br>58358                   |
| <u>(8) The transportation of persons in a ridesharing</u>   | 58359                            |

arrangement when any fee charged each person so transported is in 58360  
such amount as to recover only the person's share of the costs of 58361  
operating the motor vehicle for such purpose; 58362

(9) The operation of motor vehicles for contractors on public 58363  
road work. 58364

"For-hire motor carrier" includes the carrier's agents, 58365  
officers, and representatives, as well as employees responsible 58366  
for hiring, supervising, training, assigning, or dispatching 58367  
drivers and employees concerned with the installation, inspection, 58368  
and maintenance of motor-vehicle equipment and accessories. 58369

Divisions (B)(1) to (9) of this section shall not be 58370  
construed to relieve a person from compliance with 58371  
hazardous-material regulation under section 4921.15 of the Revised 58372  
Code and division (H) of section 4921.19 of the Revised Code, or 58373  
rules adopted thereunder, or from compliance with rules governing 58374  
unified carrier registration adopted under section 4921.11 of the 58375  
Revised Code. 58376

(C) "Household goods" means personal effects and property 58377  
used or to be used in a dwelling, excluding property moving from a 58378  
factory or store. 58379

(D) "Interstate commerce" means trade, traffic, or 58380  
transportation in the United States that is any of the following: 58381

(1) Between a place in a state and a place outside of that 58382  
state (including a place outside of the United States); 58383

(2) Between two places in a state through another state or a 58384  
place outside of the United States; 58385

(3) Between two places in a state as part of trade, traffic, 58386  
or transportation originating or terminating outside the state or 58387  
the United States. 58388

(E) "Intrastate commerce" means any trade, traffic, or 58389

transportation in any state which is not described in the term 58390  
"interstate commerce." 58391

(F) "Motor vehicle" means any vehicle, machine, tractor, 58392  
trailer, or semitrailer propelled or drawn by mechanical power and 58393  
used upon the highways in the transportation of persons or 58394  
property, or any combination thereof, but does not include any 58395  
vehicle, locomotive, or car operated exclusively on a rail or 58396  
rails, or a trolley bus operated by electric power derived from a 58397  
fixed overhead wire, furnishing local passenger transportation 58398  
similar to street-railway service. 58399

(G) "Public highway" means any public street, road, or 58400  
highway in this state, whether within or without the corporate 58401  
limits of a municipal corporation. 58402

(H) "Ridesharing arrangement" means the transportation of 58403  
persons in a motor vehicle where such transportation is incidental 58404  
to another purpose of a volunteer driver, and includes ridesharing 58405  
arrangements known as carpools, vanpools, and buspools. 58406

(I) "School bus" has the same meaning as in section 4511.01 58407  
of the Revised Code. 58408

(J) "Trailer" means any vehicle without motive power designed 58409  
or used for carrying persons or property and for being drawn by a 58410  
separate motor vehicle, including any vehicle of the trailer type, 58411  
whether designed or used for carrying persons or property wholly 58412  
on its own structure, or so designed or used that a part of its 58413  
own weight or the weight of its load rests upon and is carried by 58414  
such motor vehicle. 58415

**Sec. 4921.03.** (A) No for-hire motor carrier may operate in 58416  
intrastate commerce unless the carrier has a current and valid 58417  
certificate of public convenience and necessity. 58418

(B) The public utilities commission shall issue a certificate 58419

of public convenience and necessity to any person who does all of 58420  
the following: 58421

(1) Files with the commission, in accordance with rules 58422  
adopted under section 4921.05 of the Revised Code, a complete and 58423  
accurate application that shall include a certification that (a) 58424  
the person understands and is in compliance with the applicable 58425  
service, operation, and safety laws of this state and (b) the 58426  
person meets the requirements of section 4921.09 of the Revised 58427  
Code; 58428

(2) Agrees to maintain accurate and current business and 58429  
insurance information with the commission, in accordance with the 58430  
commission's rules; 58431

(3) Has paid all applicable registration fees in accordance 58432  
with rules adopted under section 4921.11 of the Revised Code, all 58433  
applicable taxes under section 4921.19 of the Revised Code, and 58434  
any forfeitures imposed under section 4923.99 of the Revised Code. 58435

(C) The commission shall have no power to fix, alter, or 58436  
establish rates for the transportation of persons or property, nor 58437  
shall the commission have the power to require or accept the 58438  
filing of tariffs establishing such rates, except that the 58439  
commission may accept the filing of tariffs establishing rates for 58440  
the transportation of household goods. 58441

(D) A for-hire motor carrier may, at any time after a 58442  
certificate of public convenience and necessity is granted or 58443  
refused, file a new application or supplement a former 58444  
application. 58445

(E) The commission may deny issuance of a certificate of 58446  
public convenience and necessity for failure to comply with this 58447  
section or rules adopted under section 4921.05 of the Revised 58448  
Code. 58449

Sec. 4921.05. The public utilities commission shall adopt 58450  
rules prescribing the manner and form in which a person shall 58451  
apply for a certificate of public convenience and necessity under 58452  
section 4921.03 of the Revised Code. The rules shall include a 58453  
requirement that applications be made in writing on the blanks 58454  
furnished by the commission and contain any information and 58455  
certifications deemed necessary by the commission to carry out 58456  
this chapter. 58457

Sec. 4921.07. (A) The public utilities commission shall adopt 58458  
rules regarding procedures and timelines by which a certificate of 58459  
public convenience and necessity issued under section 4921.03 of 58460  
the Revised Code may be suspended. At a minimum, the rules shall 58461  
require suspension of a certificate if the for-hire motor carrier 58462  
does any of the following: 58463

(1) Fails to file a complete and accurate application for the 58464  
certificate under section 4921.03 of the Revised Code; 58465

(2) Fails to maintain accurate and current business and 58466  
insurance information with the commission; 58467

(3) Fails to maintain proper proof of insurance or proper 58468  
levels of insurance under section 4921.09 of the Revised Code; 58469

(4) Fails to pay all applicable registration fees in 58470  
accordance with rules adopted under section 4921.11 of the Revised 58471  
Code, all applicable taxes under section 4921.19 of the Revised 58472  
Code, and any forfeitures imposed under section 4923.99 of the 58473  
Revised Code; 58474

(5) Requests to suspend the carrier's operations. 58475

(B)(1) The commission shall adopt rules regarding procedures 58476  
and timelines by which a certificate suspended under division (A) 58477  
of this section may be revoked if the conditions giving rise to 58478  
the suspension are not remedied. 58479

(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.

**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.

(B) No certificate for the transportation of household goods shall be issued to a for-hire motor carrier pursuant to sections 4921.30 to 4921.38 of the Revised Code until it has filed with the commission a freight cargo insurance certificate, policy, or bond that the commission has determined to be adequate to protect the interests of the shipping public.

(C) The Commission shall adopt rules to achieve the purposes of this section that are not incompatible with the requirements of the United States department of transportation. The rules shall at a minimum address all of the following:

(1) The minimum levels of financial responsibility for each

|  |       |
|--|-------|
| <u>type of for-hire motor carrier;</u>   | 58511 |
| <u>(2) The form and type of documents to be filed with the</u>                 | 58512 |
| <u>commission;</u>   | 58513 |
| <u>(3) The manner by which documents may be filed with the</u>                 | 58514 |
| <u>commission;</u>   | 58515 |
| <u>(4) The timelines for filing documents with the commission.</u>             | 58516 |
| <u>(D) If a certificate, policy, or bond required under division</u>           | 58517 |
| <u>(A) of this section is canceled during its term or lapses for any</u>       | 58518 |
| <u>reason, both of the following apply:</u>                                    | 58519 |
| <u>(1) All operations under the certificate of public</u>                      | 58520 |
| <u>convenience and necessity shall cease immediately, and further</u>          | 58521 |
| <u>operations shall not be conducted until a replacement is filed</u>          | 58522 |
| <u>with the commission under division (D)(2) of this section.</u>              | 58523 |
| <u>(2) The commission shall require the company to replace the</u>             | 58524 |
| <u>certificate, policy, or bond with another that fully complies with</u>      | 58525 |
| <u>the requirements of this section.</u>                                       | 58526 |
| <u>The certificate of public convenience and necessity shall be</u>            | 58527 |
| <u>reinstated only after a satisfactory insurance certificate,</u>             | 58528 |
| <u>policy, or bond has been filed with the commission.</u>                     | 58529 |
| <u>(E) To ensure minimum standards of protection of consumers'</u>             | 58530 |
| <u>household goods, the commission may adopt rules, not incompatible</u>       | 58531 |
| <u>with the requirements of the United States department of</u>                | 58532 |
| <u>transportation, governing requirements for cargo insurance for</u>          | 58533 |
| <u>for-hire motor carriers engaged in the transportation of household</u>      | 58534 |
| <u>goods over a public highway in this state.</u>                              | 58535 |
| <b><u>Sec. 4921.11. The public utilities commission shall adopt</u></b>        | 58536 |
| <b><u>rules applicable to registration pursuant to the unified carrier</u></b> | 58537 |
| <b><u>registration plan, codified as 49 U.S.C. 14504a, and the rules,</u></b>  | 58538 |
| <b><u>procedures, and fee schedules adopted thereunder, in accordance</u></b>  | 58539 |
| <b><u>with division (G) of section 4921.19 of the Revised Code.</u></b>        | 58540 |

Sec. 4921.13. (A) The public utilities commission shall adopt 58541  
rules applicable to the filing of annual update forms and the 58542  
payment of taxes by for-hire motor carriers. The rules shall not 58543  
be incompatible with the requirements of the United States 58544  
department of transportation. The rules shall at a minimum address 58545  
all of the following: 58546

(1) The information and certifications that must be provided 58547  
to the commission on an annual update form, including a 58548  
certification that the carrier continues to be in compliance with 58549  
the applicable laws of this state. 58550

(2) Documentation and information that must be provided 58551  
regarding proof of financial responsibility; 58552

(3) The form and manner in which taxes may be paid under 58553  
section 4921.19 of the Revised Code. 58554

(B) The rules may address any other information that the 58555  
commission determines is necessary to carry out this section. 58556

(C) A for-hire motor carrier shall not be issued a tax 58557  
receipt under division (C) of section 4921.19 of the Revised Code 58558  
until all of the following have been satisfied: 58559

(1) A complete and accurate annual update form has been filed 58560  
with the commission; 58561

(2) Proof of financial responsibility remains in effect; 58562

(3) All applicable registration fees in accordance with rules 58563  
adopted under section 4921.11 of the Revised Code, all applicable 58564  
taxes under section 4921.19 of the Revised Code, and any 58565  
forfeitures imposed under section 4923.99 of the Revised Code have 58566  
been paid in full. 58567

Sec. 4921.15. (A) As used in sections 4921.15, 4921.16, and 58568  
4921.19 of the Revised Code: 58569

(1) "Uniform registration" has the same meaning as 58570  
"registration" as used in the final report submitted to the United 58571  
States secretary of transportation, pursuant to subsection (c) of 58572  
section 22 of the "Hazardous Materials Transportation Uniform 58573  
Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. 58574

(2) "Uniform permit" has the same meaning as "permit" as used 58575  
in the final report submitted to the United States secretary of 58576  
transportation, pursuant to subsection (c) of section 22 of the 58577  
"Hazardous Materials Transportation Uniform Safety Act of 1990," 58578  
104 Stat. 3244, 49 U.S.C.A. App. 1819. 58579

(B)(1) The public utilities commission may adopt rules 58580  
applicable to the uniform registration and uniform permitting of 58581  
persons engaged in the highway transportation of hazardous 58582  
materials into, through, or within this state. The rules shall 58583  
include rules staggering the registration date for those persons 58584  
and reducing or extending, by no more than one year, the permit 58585  
renewal period for those persons. 58586

(2) For the purpose of minimizing filing requirements 58587  
regarding any background investigation required for the issuance 58588  
of a uniform permit as a carrier of hazardous wastes, the 58589  
commission shall accept from any applicant for the permit any 58590  
refiling of information the applicant has filed with the office of 58591  
the attorney general under section 3734.42 of the Revised Code or 58592  
any reference to that information if the refiled or referenced 58593  
information is on file with the office of the attorney general, is 58594  
accurate and timely for the commission's purposes under this 58595  
section, and is supplemented by any additional information the 58596  
commission requires. The office of the attorney general, as 58597  
necessary for a background investigation, shall make accessible to 58598  
the commission any information referenced or refiled in an 58599  
application for a uniform permit as a carrier of hazardous wastes 58600  
that the attorney general determines may be disclosed in 58601

accordance with section 3734.42 of the Revised Code. Nothing in 58602  
sections 4921.15, 4921.16, and division (H) of section 4921.19 of 58603  
the Revised Code affects any limitations under section 3734.42 of 58604  
the Revised Code on the disclosure of that information. 58605

(C) The commission, as necessary to implement the rules 58606  
adopted under division (B) of this section, may enter into 58607  
agreements, contracts, arrangements, or declarations with other 58608  
states and with the national repository, established pursuant to 58609  
the final report submitted to the United States secretary of 58610  
transportation, pursuant to subsection (c) of section 22 of the 58611  
"Hazardous Materials Transportation Uniform Safety Act of 1990," 58612  
104 Stat. 3244, 49 U.S.C.A. App. 1819. The agreements, contracts, 58613  
arrangements, or declarations shall include, but not be limited 58614  
to, the determination of a base state, the collection of uniform 58615  
registration fees, the frequency of distribution of uniform 58616  
registration fees, procedures for dispute resolution, and 58617  
protection of trade secrets and confidential business information. 58618

(D) No person shall knowingly falsify or fail to submit any 58619  
data, reports, records, or other information required to be 58620  
submitted to the commission pursuant to this section or a rule 58621  
adopted under it. For purposes of this division, a person acts 58622  
knowingly if either of the following applies: 58623

(1) The person has actual knowledge of the facts giving rise 58624  
to the violation. 58625

(2) A reasonable person acting in the circumstances and 58626  
exercising due care would have such knowledge. 58627

(E) After notice and opportunity for a hearing, the 58628  
commission, pursuant to criteria set forth in rules adopted under 58629  
division (B) of this section, may suspend, revoke, or deny the 58630  
uniform permit as a carrier of hazardous materials of any person 58631  
that has obtained or applied for such a uniform permit from the 58632

commission pursuant to rules adopted under that division, or the 58633  
commission may order the suspension of the transportation of 58634  
hazardous materials into, through, or within this state by a 58635  
carrier that has obtained a uniform permit from another state that 58636  
has a reciprocity agreement with the commission pursuant to 58637  
division (C) of this section. 58638

(F)(1) The proceedings specified in division (E) of this 58639  
section are subject to and governed by Chapter 4903. of the 58640  
Revised Code, except as otherwise provided in this section. The 58641  
court of appeals of Franklin county has exclusive original 58642  
jurisdiction to review, modify, or vacate any order of the 58643  
commission suspending, revoking, or denying a uniform permit as a 58644  
carrier of hazardous materials of any person that has obtained or 58645  
applied for a uniform permit from the commission pursuant to rules 58646  
adopted under division (B) of this section, or any order of the 58647  
commission suspending the transportation of hazardous materials 58648  
into, through, or within this state by a carrier that has obtained 58649  
a uniform permit from another state that has a reciprocity 58650  
agreement with the commission under division (C) of this section. 58651  
The court of appeals shall hear and determine those appeals in the 58652  
same manner and under the same standards as the Ohio supreme court 58653  
hears and determines appeals under Chapter 4903. of the Revised 58654  
Code. The judgment of the court of appeals is final and conclusive 58655  
unless reversed, vacated, or modified on appeal. Such appeals may 58656  
be taken either by the commission or the person to whom the order 58657  
was issued and shall proceed as in the case of appeals in civil 58658  
actions as provided in Chapter 2505. of the Revised Code. 58659

(2) Section 4903.11 of the Revised Code does not apply to 58660  
appeals of any order of the commission suspending, revoking, or 58661  
denying a uniform permit of a person that has obtained or applied 58662  
for a uniform permit from the commission pursuant to rules adopted 58663  
under division (B) of this section, or of any order of the 58664

commission suspending the transportation of hazardous materials 58665  
into, through, or within this state by a carrier that has obtained 58666  
a uniform permit from another state that has a reciprocity 58667  
agreement with the commission pursuant to division (C) of this 58668  
section. Any person to whom such an order is issued who wishes to 58669  
contest the order shall file, within sixty days after the entry of 58670  
the order upon the journal of the commission, a notice of appeal, 58671  
setting forth the order appealed from and the errors complained 58672  
of. The notice of appeal shall be served, unless waived, upon the 58673  
chairperson of the commission or, in the event of the 58674  
chairperson's absence, upon any public utilities commissioner, or 58675  
by leaving a copy at the office of the commission at Columbus. On 58676  
appeal, the court shall reverse, vacate, or modify the order if, 58677  
upon consideration of the record, the court is of the opinion that 58678  
the order was unlawful or unreasonable. 58679

**Sec. 4921.16.** (A) Information submitted to the public 58680  
utilities commission as part of a uniform registration 58681  
application, pursuant to rules adopted under division (B) of 58682  
section 4921.15 of the Revised Code, is a public record and is 58683  
subject to section 149.43 of the Revised Code. 58684

(B) Except for information related to corporate structure and 58685  
personnel, information that is submitted to the commission as part 58686  
of a uniform permit application, pursuant to rules adopted under 58687  
division (B) of section 4921.15 of the Revised Code, is a public 58688  
record and is subject to section 149.43 of the Revised Code. 58689  
Information that is related to corporate structure and personnel 58690  
that is submitted to the commission as part of a uniform permit 58691  
application, pursuant to rules adopted under division (B) of 58692  
section 4921.15 of the Revised Code, is not a public record and is 58693  
not subject to section 149.43 of the Revised Code. Except as 58694  
provided in division (D) of this section, the commission shall not 58695  
disclose to any person any information that is related to 58696

corporate structure and personnel that is submitted as part of a 58697  
uniform permit application. 58698

(C) Information that is submitted for any background 58699  
investigation for an application for a uniform permit as a carrier 58700  
of hazardous wastes is not a public record and is not subject to 58701  
section 149.43 of the Revised Code. Except as provided in division 58702  
(D) of this section, the commission shall not disclose to any 58703  
person any information submitted for any background investigation 58704  
for such an application. 58705

(D) The commission may disclose to its authorized employees 58706  
and to any federal agencies, state agencies of this state or 58707  
another state, local government agencies of this state or another 58708  
state, or the national repository established pursuant to the 58709  
final report submitted to the United States secretary of 58710  
transportation, pursuant to subsection (c) of section 22 of the 58711  
"Hazardous Materials Transportation Uniform Safety Act of 1990," 58712  
104 Stat. 3244, 49 U.S.C.A. App. 1819, any information submitted 58713  
to the commission as part of a uniform permit application that is 58714  
related to corporate structure and personnel or submitted for any 58715  
background investigation for an application for a uniform permit 58716  
as a carrier of hazardous wastes if all of the following 58717  
conditions are met: 58718

(1) The commission enters into a confidentiality agreement 58719  
with the employee, agency, or national repository under which that 58720  
employee or entity agrees not to disclose to any third party any 58721  
information related to corporate structure or personnel or any 58722  
information submitted as part of a background investigation unless 58723  
the third party enters into a confidentiality agreement with the 58724  
commission consistent with this division. 58725

(2) The employee, agency, or national repository certifies to 58726  
the commission that it is not required by any state or federal law 58727  
to disclose any information related to corporate structure or 58728

personnel or any information submitted as part of a background investigation. 58729  
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(3) The federal agency, state or local government agency of another state, or national repository irrevocably consents in writing to the jurisdiction of the courts of this state and service of process in this state, including, without limitation, summonses and subpoenas, for any civil proceeding arising out of an intentional disclosure of information in violation of this division. 58731  
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(E) Any person who intentionally discloses information in violation of division (D) of this section is liable to the owner of the information for civil damages caused by the disclosure. 58738  
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**Sec. 4921.19.** (A) Every for-hire motor carrier operating in this state shall, at the time of the issuance of a certificate of public convenience and necessity under section 4921.03 of the Revised Code, pay to the public utilities commission, for and on behalf of the treasurer of state, the following taxes: 58741  
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(1) For each motor vehicle used for transporting persons, thirty dollars; 58746  
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(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, thirty dollars; 58748  
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(3) For each other motor vehicle transporting property, twenty dollars. 58751  
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(B) Every for-hire motor carrier operating in this state solely in intrastate commerce shall, annually between the first day of May and the thirtieth day of June, pay to the commission, for and on behalf of the treasurer of state, the following taxes: 58753  
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(1) For each motor vehicle used for transporting persons, thirty dollars; 58757  
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(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, thirty dollars; 58759  
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(3) For each other motor vehicle transporting property, twenty dollars. 58762  
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(C) After a for-hire motor carrier has paid the applicable taxes under division (B) of this section and all requirements under division (C) of section 4921.13 of the Revised Code have been met, the commission shall issue the carrier a tax receipt. The carrier shall carry a copy of the tax receipt in each motor vehicle operated by the carrier. The carrier shall maintain the original copy of the tax receipt at the carrier's primary place of business. 58764  
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(D) A trailer used by a for-hire motor carrier shall not be taxed under this section. 58772  
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(E) The annual tax levied by division (B) of this section does not apply in those cases where the commission finds that the movement of agricultural commodities or foodstuffs produced therefrom requires a temporary and seasonal use of vehicular equipment for a period of not more than ninety days. In such event, the tax on the vehicular equipment shall be twenty-five per cent of the annual tax levied by division (B) of this section. If any vehicular equipment is used in excess of the ninety-day period, the annual tax levied by this section shall be paid. 58774  
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(F) All taxes levied by division (B) of this section shall be reckoned as from the beginning of the quarter in which the tax receipt is issued or as from when the use of equipment under any existing tax receipt began. 58783  
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(G) The fees for unified carrier registration pursuant to section 4921.11 of the Revised Code shall be identical to those established by the unified carrier registration act board as 58787  
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approved by the federal motor carrier safety administration for 58790  
each year. 58791

(H)(1) The fees for uniform registration and a uniform permit 58792  
as a carrier of hazardous materials pursuant to section 4921.15 of 58793  
the Revised Code shall consist of the following: 58794

(a) A processing fee of fifty dollars; 58795

(b) An apportioned per-truck registration fee, which shall be 58796  
calculated by multiplying the percentage of a registrant's 58797  
activity in this state times the percentage of the registrant's 58798  
business that is hazardous-materials-related, times the number of 58799  
vehicles owned or operated by the registrant, times a per-truck 58800  
fee determined by order of the commission following public notice 58801  
and an opportunity for comment. 58802

(i) The percentage of a registrant's activity in this state 58803  
shall be calculated by dividing the number of miles that the 58804  
registrant travels in this state under the international 58805  
registration plan, pursuant to section 4503.61 of the Revised 58806  
Code, by the number of miles that the registrant travels 58807  
nationwide under the international registration plan. Registrants 58808  
that operate solely within this state shall use one hundred per 58809  
cent as their percentage of activity. Registrants that do not 58810  
register their vehicles through the international registration 58811  
plan shall calculate activity in the state in the same manner as 58812  
that required by the international registration plan. 58813

(ii) The percentage of a registrant's business that is 58814  
hazardous-materials-related shall be calculated, for 58815  
less-than-truckload shipments, by dividing the weight of all the 58816  
registrant's hazardous materials shipments by the total weight of 58817  
all shipments in the previous year. The percentage of a 58818  
registrant's business that is hazardous-materials-related shall be 58819  
calculated, for truckload shipments, by dividing the number of 58820

shipments for which placarding, marking of the vehicle, or 58821  
manifesting, as appropriate, was required by regulations adopted 58822  
under sections 4 to 6 of the "Hazardous Materials Transportation 58823  
Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C. App. 1804, 58824  
by the total number of the registrant's shipments that transported 58825  
any kind of goods in the previous year. A registrant that 58826  
transports both less-than-truckload and truckload shipments of 58827  
hazardous materials shall calculate the percentage of business 58828  
that is hazardous-materials-related on a proportional basis. 58829

(iii) A registrant may utilize fiscal year, or calendar year, 58830  
or other current company accounting data, or other publicly 58831  
available information, in calculating the percentages required by 58832  
divisions (H)(1)(b)(i) and (ii) of this section. 58833

(2) The commission, after notice and opportunity for a 58834  
hearing, may assess each carrier a fee for any background 58835  
investigation required for the issuance, for the purpose of 58836  
section 3734.15 of the Revised Code, of a uniform permit as a 58837  
carrier of hazardous wastes and fees related to investigations and 58838  
proceedings for the denial, suspension, or revocation of a uniform 58839  
permit as a carrier of hazardous materials. The fees shall not 58840  
exceed the reasonable costs of the investigations and proceedings. 58841  
The fee for a background investigation for a uniform permit as a 58842  
carrier of hazardous wastes shall be six hundred dollars plus the 58843  
costs of obtaining any necessary information not included in the 58844  
permit application, to be calculated at the rate of thirty dollars 58845  
per hour, not exceeding six hundred dollars, plus any fees payable 58846  
to obtain necessary information. 58847

(I) The application fee for a certificate for the 58848  
transportation of household goods issued pursuant to sections 58849  
4921.30 to 4921.38 of the Revised Code shall be based on the 58850  
certificate holder's gross revenue, in the prior year, for the 58851  
intrastate transportation of household goods. The commission shall 58852

establish, by order, ranges of gross revenue and the fee for each 58853  
range. The fees shall be set in amounts sufficient to carry out 58854  
the purposes of sections 4921.30 to 4921.38 and 4923.99 of the 58855  
Revised Code and, to the extent necessary, the commission shall 58856  
make changes to the fee structure to ensure that neither over nor 58857  
under collection of the fees occurs. The fees shall also take into 58858  
consideration the revenue generated from the assessment of 58859  
forfeitures under section 4923.99 of the Revised Code regarding 58860  
the consumer protection provisions applicable to for-hire motor 58861  
carriers engaged in the transportation of household goods. 58862

(J) The fees and taxes provided under this section shall be 58863  
in addition to taxes, fees, and charges fixed and exacted by other 58864  
sections of the Revised Code, except the assessments required by 58865  
section 4905.10 of the Revised Code, but all fees, license fees, 58866  
annual payments, license taxes, or taxes or other money exactions, 58867  
except the general property tax, assessed, charged, fixed, or 58868  
exacted by local authorities such as municipal corporations, 58869  
townships, counties, or other local boards, or the officers of 58870  
such subdivisions are illegal and, are superseded by sections 58871  
4503.04 and 4905.03 and Chapter 4921. of the Revised Code. On 58872  
compliance with sections 4503.04 and 4905.03 and Chapter 4921. of 58873  
the Revised Code, all local ordinances, resolutions, by laws, and 58874  
rules in force shall cease to be operative as to the persons in 58875  
compliance, except that such local subdivisions may make 58876  
reasonable local police regulations within their respective 58877  
boundaries not inconsistent with sections 4503.04 and 4905.03 and 58878  
Chapter 4921. of the Revised Code. 58879

**Sec. 4921.21.** (A) As used in this section, "adjusted credit 58880  
amount" means the aggregate amount credited to the public 58881  
utilities transportation safety fund, less the sum of all of the 58882  
following: 58883

(1) The fees collected by the public utilities commission, in accordance with the unified carrier registration plan under section 4921.11 of the Revised Code, that exceed the federal certification of revenue for each year of the plan; 58884  
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(2) The fees collected by the commission on behalf of other states under division (C) of section 4921.15 of the Revised Code; 58888  
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(3) The forfeitures collected by the commission under section 4923.99 of the Revised Code for violations of rules adopted under division (A)(2) of section 4923.04 of the Revised Code. 58890  
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(B)(1) There is hereby created in the state treasury the public utilities transportation safety fund. The fees collected in accordance with the unified carrier registration plan under section 4921.11 of the Revised Code, the fees collected under section 4921.15 of the Revised Code, the taxes and fees remitted under section 4921.19 of the Revised Code, the forfeitures imposed under section 4923.99 of the Revised Code, except as provided in division (B)(2) of this section, and the fines collected under section 4163.07 of the Revised Code shall be deposited into the state treasury to the credit of the public utilities transportation safety fund, until the adjusted credit amount in a fiscal year is equal to the total amount appropriated from the fund for the fiscal year. Once this point of parity is reached, any additional fees, taxes, forfeitures, or fines received during the fiscal year shall be credited to the general revenue fund, except as provided in division (B)(2) of this section, and except for both of the following: 58893  
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(a) The fees collected in accordance with the unified carrier registration plan under section 4921.11 of the Revised Code, that exceed the federal certification of revenue for each year of the plan; 58910  
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(b) The fees collected on behalf of other states under 58914

division (C) of section 4921.15 of the Revised Code. 58915

(2) The first eight hundred thousand dollars of forfeitures 58916  
collected under section 4923.99 of the Revised Code, for 58917  
violations of rules adopted under division (A)(2) of section 58918  
4923.04 of the Revised Code, during each fiscal year shall be 58919  
credited to the public utilities transportation safety fund. Any 58920  
forfeitures in excess of that amount shall be deposited into the 58921  
general revenue fund. In each fiscal year, the commission shall 58922  
distribute moneys from these forfeitures credited to the public 58923  
utilities transportation safety fund for the purposes of emergency 58924  
response planning and the training of safety, enforcement, and 58925  
emergency services personnel in proper techniques for the 58926  
management of hazardous materials releases that occur during 58927  
transportation or otherwise. For these purposes, fifty per cent of 58928  
all such moneys credited to the public utilities transportation 58929  
safety fund shall be distributed to Cleveland state university, 58930  
forty-five per cent shall be distributed to other educational 58931  
institutions, state agencies, regional planning commissions, and 58932  
political subdivisions, and five per cent shall be retained by the 58933  
commission for the administration of this section and for training 58934  
employees. However, if, in any such period, moneys from these 58935  
forfeitures credited to the public utilities transportation safety 58936  
fund equal an amount less than four hundred thousand dollars, the 58937  
commission shall distribute, to the extent of the aggregate amount 58938  
of those moneys, two hundred thousand dollars to Cleveland state 58939  
university and the remainder to other educational institutions, 58940  
state agencies, regional planning commissions, and political 58941  
subdivisions. 58942

(C) The purpose of the public utilities transportation safety 58943  
fund shall be for defraying all expenses incident to maintaining 58944  
the nonrailroad transportation activities of the commission. 58945

(D) There is hereby created in the state treasury the federal 58946

commercial vehicle transportation systems fund. The fund shall 58947  
consist of money received from the United States department of 58948  
transportation's commercial vehicle intelligent transportation 58949  
systems infrastructure deployment program. The public utilities 58950  
commission shall use the fund to deploy the Ohio commercial 58951  
vehicle information systems networks project and to improve safety 58952  
of motor carrier operations through electronic exchange of data. 58953

(E) There is hereby created in the state treasury the motor 58954  
carrier safety fund. The fund shall consist of money received from 58955  
the United States department of transportation for motor carrier 58956  
safety. The commission shall use the fund to administer the 58957  
state's motor carrier safety assistance program and associated 58958  
grants, including the motor carrier safety assistance program 58959  
basic grant, the incentive grant, the high priority grants, the 58960  
new entrant safety assurance grant, the safety data improvement 58961  
grant, or their equivalents. 58962

(F) If the director of budget and management determines there 58963  
is not sufficient money in the public utilities transportation 58964  
safety fund, the director shall transfer money from the general 58965  
revenue fund to the public utilities transportation safety fund in 58966  
an amount up to the difference between the balance of the public 58967  
utilities transportation safety fund and the appropriations from 58968  
that fund. If the director subsequently determines during the 58969  
fiscal year that the balance of the public utilities 58970  
transportation safety fund exceeds the amount needed to support 58971  
the appropriations from the fund, the director shall transfer the 58972  
excess money, up to the amount of the original transfer, to the 58973  
general revenue fund. 58974

Sec. 4921.25. Any person, firm, copartnership, voluntary 58975  
association, joint-stock association, company, or corporation, 58976  
wherever organized or incorporated, that is engaged in the towing 58977

of motor vehicles is subject to regulation by the public utilities commission as a for-hire motor carrier under this chapter. Such an entity is not subject to any ordinance, rule, or resolution of a municipal corporation, county, or township that provides for the licensing, registering, or regulation of entities that tow motor vehicles. 58978  
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**Sec. 4921.30.** Except as otherwise provided in sections 4921.32 to 4921.38 of the Revised Code, a for-hire motor carrier engaged in the transportation of household goods in intrastate commerce: 58984  
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(A) Is subject to Chapter 4921. of the Revised Code and to all other provisions of the Revised Code applicable to a for-hire motor carrier, including sections 4506.22, 4511.78, 5502.01, 5503.02, and 5503.34 of the Revised Code; 58988  
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(B) Is not a public utility as defined in section 4911.01 of the Revised Code. 58992  
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**Sec. 4921.32.** Notwithstanding any provision of this chapter or Chapters 4901. to 4909. and 4923. of the Revised Code to the contrary: 58994  
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(A) Not later than six months after the effective date of this section, the public utilities commission, in accordance with sections 4921.30 to 4921.38 of the Revised Code, shall establish by order a certification system for for-hire motor carriers engaged in the transportation of household goods in intrastate commerce. 58997  
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(B) Beginning on the effective date of the order of the commission as initially issued under division (A) of this section, no for-hire motor carrier shall engage in the transportation of household goods in intrastate commerce without first holding a current and valid certificate for the transportation of household 59003  
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goods issued by the commission pursuant to sections 4921.30 to 59008  
4921.38 of the Revised Code. 59009

Sec. 4921.34. (A) The public utilities commission shall 59010  
approve an application for a certificate for the transportation of 59011  
household goods under sections 4921.30 to 4921.38 of the Revised 59012  
Code and shall issue a certificate, provided the applicant pays 59013  
the applicable application fee under division (I) of section 59014  
4921.19 of the Revised Code and submits to the commission a 59015  
completed application, on a form prescribed by the commission, 59016  
that is substantially the same as the application prescribed by 59017  
the commission pursuant to section 4921.05 of the Revised Code, 59018  
and includes a certification of all of the following by 59019  
responsible officials of the applicant: 59020

(1) The applicant's workers' compensation coverage is current 59021  
pursuant to Chapter 4123. of the Revised Code. 59022

(2) The applicant's unemployment compensation coverage is 59023  
current pursuant to Chapter 4141. of the Revised Code. 59024

(3) The applicant's financial responsibility is in accordance 59025  
with rules adopted by the commission under section 4921.09 of the 59026  
Revised Code. 59027

(B) The commission shall not approve any application that 59028  
does not contain the proper certifications required by this 59029  
section. The commission may revoke a certificate issued under 59030  
division (A) of this section if, after at least fifteen days' 59031  
advance notice to the certificate holder of the basis for such 59032  
action and providing the holder with an opportunity for a hearing, 59033  
the commission finds that the holder is not in compliance with 59034  
this chapter, or rules adopted or orders issued under it. 59035

(C) A certificate issued under division (A) of this section 59036  
is valid for one year and is renewable annually. 59037

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| <u>Sec. 4921.36. Each holder of a certificate for the</u>                 | 59038 |
| <u>transportation of household goods shall do all of the following:</u>   | 59039 |
| <u>(A) Make its current certificate available for public</u>              | 59040 |
| <u>inspection during normal business hours;</u>                           | 59041 |
| <u>(B) Present each of its customers with information, written</u>        | 59042 |
| <u>in plain and clear language and pursuant to a form prescribed by</u>   | 59043 |
| <u>the public utilities commission, outlining a consumer's rights;</u>    | 59044 |
| <u>(C) Include its certificate number on all advertising,</u>             | 59045 |
| <u>written estimates, and contracts, pursuant to rules adopted by the</u> | 59046 |
| <u>commission.</u>  | 59047 |
| <u>Sec. 4921.38. In accordance with sections 4921.30 to 4921.36</u>       | 59048 |
| <u>of the Revised Code, the public utilities commission may adopt</u>     | 59049 |
| <u>rules regarding any of the following:</u>                              | 59050 |
| <u>(A) Providing for binding estimates by for-hire motor</u>              | 59051 |
| <u>carriers engaged in the transportation of household goods in</u>       | 59052 |
| <u>intrastate commerce;</u>   | 59053 |
| <u>(B) Providing for guaranteed-not-to-exceed estimates by those</u>      | 59054 |
| <u>carriers;</u>  | 59055 |
| <u>(C) Requiring those carriers to include their certificate</u>          | 59056 |
| <u>number in all advertising, written estimates, and contracts</u>        | 59057 |
| <u>related to the transportation of household goods in intrastate</u>     | 59058 |
| <u>commerce;</u>  | 59059 |
| <u>(D) As are necessary and proper to carry out this chapter</u>          | 59060 |
| <u>with respect to those carriers;</u>                                    | 59061 |
| <u>(E) Providing for the enforcement of the consumer protection</u>       | 59062 |
| <u>provisions of Title 49 of the United States Code related to the</u>    | 59063 |
| <u>delivery and transportation of household goods in interstate</u>       | 59064 |
| <u>commerce, as permitted by 49 U.S.C. 14710.</u>                         | 59065 |

|   |                                  |
|---|----------------------------------|
| <u>Sec. 4923.01. As used in this chapter:</u>   | 59066                            |
| <u>(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.</u>                      | 59067<br>59068<br>59069<br>59070 |
| <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>                       | 59071<br>59072<br>59073<br>59074 |
| <u>(1) The transportation of persons in taxicabs in the usual taxicab service;</u>  | 59075<br>59076                   |
| <u>(2) The transportation of pupils in school busses operating to or from school sessions or school events;</u>   | 59077<br>59078                   |
| <u>(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;</u>  | 59079<br>59080                   |
| <u>(4) The distribution of newspapers;</u>  | 59081                            |
| <u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u>   | 59082<br>59083                   |
| <u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u>  | 59084<br>59085                   |
| <u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u>  | 59086<br>59087                   |
| <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> | 59088<br>59089<br>59090<br>59091 |
| <u>(9) The operation of motor vehicles for contractors on public road work.</u>   | 59092<br>59093                   |
| <u>"For-hire motor carrier" includes the carrier's agents,</u>  | 59094                            |

officers, and representatives, as well as employees responsible 59095  
for hiring, supervising, training, assigning, or dispatching 59096  
drivers and employees concerned with the installation, inspection, 59097  
and maintenance of motor-vehicle equipment and accessories. 59098

Divisions (B)(1) to (9) of this section shall not be 59099  
construed to relieve a person from compliance with rules adopted 59100  
under division (A)(2) of section 4923.04 of the Revised Code, 59101  
division (E) of section 4923.06 of the Revised Code, division (B) 59102  
of section 4923.07 of the Revised Code, and section 4923.11 of the 59103  
Revised Code, or from compliance with rules regarding commercial 59104  
driver's licenses adopted under division (A)(1) of section 4923.04 59105  
of the Revised Code. 59106

(C) "Motor carrier" means both a for-hire motor carrier and a 59107  
private motor carrier. 59108

(D) "Private motor carrier" means a person who is not a 59109  
for-hire motor carrier but is engaged in the business of 59110  
transporting persons or property by motor vehicle, except as 59111  
provided in section 4923.02 of the Revised Code. "Private motor 59112  
carrier" includes the carrier's agents, officers, and 59113  
representatives, as well as employees responsible for hiring, 59114  
supervising, training, assigning, or dispatching drivers and 59115  
employees concerned with the installation, inspection, and 59116  
maintenance of motor-vehicle equipment and accessories. 59117

**Sec. 4923.02.** (A) As used in this chapter, "private motor 59118  
carrier" does not include a person when engaged in any of the 59119  
following in intrastate commerce: 59120

(1) The transportation of persons in taxicabs in the usual 59121  
taxicab service; 59122

(2) The transportation of pupils in school busses operating 59123  
to or from school sessions or school events; 59124

|  |   |
|--|---|
| <u>(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;</u>   | 59125<br>59126                            |
| <u>(4) The distribution of newspapers;</u>   | 59127                                     |
| <u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u>  | 59128<br>59129                            |
| <u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u>   | 59130<br>59131                            |
| <u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u>   | 59132<br>59133                            |
| <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>                                    | 59134<br>59135<br>59136<br>59137          |
| <u>(9) The operation of motor vehicles for contractors on public road work.</u>  | 59138<br>59139                            |
| <u>(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:</u>                           | 59140<br>59141<br>59142<br>59143          |
| <u>(1) The governor of this state has declared an emergency.</u>   | 59144                                     |
| <u>(2) The chairperson of the commission or the chairperson's designee has declared a transportation-specific emergency.</u>   | 59145<br>59146                            |
| <u>(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.</u> | 59147<br>59148<br>59149<br>59150<br>59151 |
| <u>(D) Divisions (A) to (C) of this section shall not be construed to relieve a person from compliance with either of the following:</u>   | 59152<br>59153<br>59154                   |

(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; 59155  
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(2) Rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code. 59159  
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**Sec. 4923.04.** (A)(1) The public utilities commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. 59161  
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(2) The commission shall adopt rules applicable to the highway transportation and offering for transportation of hazardous materials by motor carriers, and persons engaging in the highway transportation and offering for transportation of hazardous materials, operating in interstate or intrastate commerce. 59165  
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(B) The rules adopted under division (A) of this section shall not be incompatible with the requirements of the United States department of transportation. 59171  
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(C) To achieve the purposes of this chapter and to assist the commission in the performance of any of its powers or duties, the commission, either through the public utilities commissioners or employees authorized by it, may do either or both of the following: 59174  
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(1) Apply for, and any judge of a court of record of competent jurisdiction may issue, an appropriate search warrant; 59179  
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(2) Examine under oath, at the offices of the commission, any officer, agent, or employee of any person subject to this chapter. The commission, by subpoena, also may compel the attendance of a witness for the purpose of the examination and, by subpoena duces 59181  
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tecum, may compel the production of all books, contracts, records, 59185  
and documents that relate to the transportation and offering for 59186  
transportation of hazardous materials. 59187

**Sec. 4923.06.** (A) The public utilities commission may, 59188  
through the commission's inspectors or other authorized employees, 59189  
enter in or upon any motor vehicle of any motor carrier, or any 59190  
person engaging in the transportation of hazardous material or 59191  
hazardous waste, to inspect the motor vehicle or driver subject to 59192  
rules adopted under section 4923.04 of the Revised Code. 59193

(B) In order to assist the commission in performing its 59194  
duties under this section, authorized employees of the state 59195  
highway patrol of the department of public safety may conduct 59196  
inspections of motor vehicles and drivers. 59197

(C) Inspectors and employees authorized to conduct 59198  
inspections under divisions (A) and (B) of this section may, under 59199  
the direction of the commission, stop motor vehicles to inspect 59200  
those vehicles and drivers to enforce compliance with rules 59201  
adopted under section 4923.04 of the Revised Code. 59202

(D) Inspectors and employees authorized to conduct 59203  
inspections under divisions (A) and (B) of this section shall 59204  
conduct inspections consistent with the North American standard 59205  
inspection procedure of the commercial vehicle safety alliance and 59206  
the standards of the United States department of transportation. 59207  
The inspectors and employees may declare drivers and motor 59208  
vehicles out-of-service consistent with this procedure and these 59209  
standards. 59210

(E) The commission may adopt rules to carry out this section 59211  
that are not incompatible with the requirements of the United 59212  
States department of transportation. 59213

**Sec. 4923.07.** (A) The public utilities commission may, 59214

through the commission's inspectors or other authorized employees, 59215  
enter in or upon the premises and motor vehicles of any motor 59216  
carrier, or any person engaging in the transportation of hazardous 59217  
material or hazardous waste, to examine any records, documents, or 59218  
property for the purpose of assessing the safety, performance, and 59219  
management controls associated with the carrier or person. 59220

(B) The commission may adopt rules to carry out this section 59221  
that are not incompatible with the requirements of the United 59222  
States department of transportation. 59223

**Sec. 4923.09.** The public utilities commission shall cooperate 59224  
with and permit the use of the services, records, and facilities 59225  
of the commission as fully as practicable by appropriate officers 59226  
of the United States department of transportation, other federal 59227  
agencies or commissions, and appropriate commissions of other 59228  
states in the enforcement and administration of state and federal 59229  
laws relating to highway transportation by motor vehicles. The 59230  
commission may enter into cooperative agreements with the United 59231  
States department of transportation and any other federal agency 59232  
or commission to enforce the safety laws and rules of this state 59233  
and of the United States concerning highway transportation by 59234  
motor vehicles. All grants-in-aid, cash, and reimbursements 59235  
received by the commission pursuant to those cooperative 59236  
agreements shall be deposited to the credit of the motor carrier 59237  
safety fund created under section 4921.21 of the Revised Code. 59238

**Sec. 4923.11.** The public utilities commission may adopt rules 59239  
applicable to the highway routing of hazardous materials into, 59240  
through, or within this state. Rules adopted under this section 59241  
shall not be incompatible with requirements of the United States 59242  
department of transportation. 59243

Sec. 4923.15. Proceedings of the public utilities commission 59244  
for the assessment of forfeitures for violations of Chapters 4921. 59245  
and 4923. of the Revised Code are subject to and governed by 59246  
section 4923.99 of the Revised Code. In all other respects in 59247  
which the commission has power and authority under Chapters 4921. 59248  
and 4923. of the Revised Code, applications and complaints may be 59249  
made and filed with the commission, processes may be issued, 59250  
hearings may be held, opinions, orders, and decisions may be made 59251  
and filed, petitions for rehearing may be filed and acted upon, 59252  
and all proceedings before the supreme court of this state may be 59253  
considered and disposed of by that court in the manner, under the 59254  
conditions, subject to the limitations, and with the effect 59255  
specified in the sections of the Revised Code governing the 59256  
supervision of public utilities by the commission. 59257

Sec. 4923.99. (A)(1) Whoever violates Chapter 4921. or 4923. 59258  
of the Revised Code is liable to the state for a forfeiture of not 59259  
more than twenty-five thousand dollars for each day of each 59260  
violation. The public utilities commission, after providing 59261  
reasonable notice and the opportunity for a hearing in accordance 59262  
with the procedural rules adopted under section 4901.13 of the 59263  
Revised Code, shall assess, by order, a forfeiture upon a person 59264  
whom the commission determines, by a preponderance of the 59265  
evidence, committed the violation. In determining the amount of 59266  
the forfeiture for a violation discovered during a driver or 59267  
motor-vehicle inspection under section 4923.06 of the Revised 59268  
Code, the commission shall, to the extent practicable, not act in 59269  
a manner incompatible with the requirements of the United States 59270  
department of transportation, and, to the extent practicable, 59271  
shall utilize a system comparable to the recommended civil-penalty 59272  
procedure adopted by the commercial vehicle safety alliance. In 59273  
determining the amount of the forfeiture for a violation 59274

discovered during a compliance review of a motor carrier under 59275  
section 4923.07 of the Revised Code, the commission shall, to the 59276  
extent practicable, not act in a manner incompatible with the 59277  
civil-penalty guidelines of the United States department of 59278  
transportation. 59279

The attorney general, upon the written request of the 59280  
commission, shall bring a civil action in the court of common 59281  
pleas of Franklin county to collect a forfeiture assessed under 59282  
this section. The commission shall account for the forfeitures 59283  
collected under this section and pay them to the treasurer of 59284  
state under section 4921.21 of the Revised Code. 59285

(2) The attorney general, upon the written request of the 59286  
commission, shall bring an action for injunctive relief in the 59287  
court of common pleas of Franklin county against any person who 59288  
has violated or is violating any order issued by the commission to 59289  
secure compliance with any provision of Chapter 4921. or 4923. of 59290  
the Revised Code. The court of common pleas of Franklin county has 59291  
jurisdiction to and may grant preliminary and permanent injunctive 59292  
relief upon a showing that the person against whom the action is 59293  
brought has violated or is violating any such order. The court 59294  
shall give precedence to such an action over all other cases. 59295

(B) The amount of any forfeiture may be compromised at any 59296  
time prior to collection of the forfeiture. The commission shall 59297  
adopt rules governing the manner in which the amount of a 59298  
forfeiture may be established by agreement prior to the hearing on 59299  
the forfeiture before the commission. 59300

(C) The proceedings of the commission specified in division 59301  
(A) of this section are subject to and governed by Chapter 4903. 59302  
of the Revised Code, except as otherwise specifically provided in 59303  
this section. The court of appeals of Franklin county has 59304  
exclusive, original jurisdiction to review, modify, or vacate an 59305  
order of the commission issued to secure compliance with any 59306

provision of Chapter 4921. or 4923. of the Revised Code. The court 59307  
of appeals shall hear and determine those appeals in the same 59308  
manner, and under the same standards, as the supreme court hears 59309  
and determines appeals under Chapter 4903. of the Revised Code. 59310  
The judgment of the court of appeals is final and conclusive 59311  
unless reversed, vacated, or modified on appeal. Such appeals may 59312  
be taken either by the commission or the person to whom the 59313  
compliance order or forfeiture assessment was issued and shall 59314  
proceed as in the case of appeals in civil actions as provided in 59315  
the rules of appellate procedure and Chapter 2505. of the Revised 59316  
Code. 59317

(D) Section 4903.11 of the Revised Code does not apply to an 59318  
appeal of an order issued to secure compliance with Chapter 4921. 59319  
or 4923. of the Revised Code or an order issued under division 59320  
(A)(1) of this section assessing a forfeiture. Any person to whom 59321  
any such order is issued who wishes to contest a compliance order, 59322  
the fact of the violation, or the amount of the forfeiture shall 59323  
file a notice of appeal, setting forth the order appealed from and 59324  
the errors complained of, within sixty days after the entry of the 59325  
order upon the journal of the commission. The notice of appeal 59326  
shall be served, unless waived, upon the chairperson of the 59327  
commission or, in the event of the chairperson's absence, upon any 59328  
public utilities commissioner, or by leaving a copy at the office 59329  
of the commission at Columbus. An order issued by the commission 59330  
to secure compliance with Chapter 4921. or 4923. of the Revised 59331  
Code or an order issued under division (A)(1) of this section 59332  
assessing a forfeiture shall be reversed, vacated, or modified on 59333  
appeal if, upon consideration of the record, the court is of the 59334  
opinion that the order was unlawful or unreasonable. 59335

(E) Only for such violations that constitute violations of 59336  
the "Hazardous Materials Transportation Uniform Safety Act of 59337  
1990," 104 Stat. 3244, 49 U.S.C.A. App. 1804 and 1805, or 59338

regulations adopted under the act, the commission, in determining 59339  
liability, shall use the same standard of culpability for civil 59340  
forfeitures under this section as that set forth for civil 59341  
penalties under section 12 of the "Hazardous Materials 59342  
Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 59343  
U.S.C.A. App. 1809. The commission shall consider the assessment 59344  
considerations for civil penalties specified in regulations 59345  
adopted under the "Hazardous Materials Transportation Act," 88 59346  
Stat. 2156 (1975), 49 U.S.C. 1801. 59347

**Sec. 4927.01.** (A) As used in this chapter: 59348

(1) "Basic local exchange service" means residential-end-user 59349  
access to and usage of telephone-company-provided services over a 59350  
single line or small-business-end-user access to and usage of 59351  
telephone-company-provided services over the primary access line 59352  
of service, which in the case of residential and small-business 59353  
access and usage is not part of a bundle or package of services, 59354  
that does both of the following: 59355

(a) Enables a customer to originate or receive voice 59356  
communications within a local service area as that area exists on 59357  
September 13, 2010, the effective date of the amendment of this 59358  
section by S.B. 162 of the 128th general assembly; 59359

(b) Consists of all of the following services: 59360

(i) Local dial tone service; 59361

(ii) For residential end users, flat-rate telephone exchange 59362  
service; 59363

(iii) Touch tone dialing service; 59364

(iv) Access to and usage of 9-1-1 services, where such 59365  
services are available; 59366

(v) Access to operator services and directory assistance; 59367

- (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; 59368  
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- (vii) Per call, caller identification blocking services; 59371
- (viii) Access to telecommunications relay service; and 59372
- (ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies. 59373  
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- (2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price. 59375  
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- (3) "Carrier access" means access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access. 59378  
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- (4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. 59384  
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- (5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that: 59391  
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- (a) On February 8, 1996, provided telephone exchange service in such area; and 59393  
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- (b)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 59395  
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- (ii) Is a person or entity that, on or after February 8, 59397

1996, became a successor or assign of a member described in 59398  
division (A)(5)(b)(i) of this section. 59399

(6) "Internet protocol-enabled services" means any services, 59400  
capabilities, functionalities, or applications that are provided 59401  
using internet protocol or a successor protocol to enable an end 59402  
user to send or receive communications in internet protocol format 59403  
or a successor format, regardless of how any particular such 59404  
service is classified by the federal communications commission, 59405  
and includes voice over internet protocol service. 59406

(7) "Local exchange carrier" means any person engaged in the 59407  
provision of telephone exchange service, or the offering of access 59408  
to telephone exchange service or facilities for the purpose of 59409  
originating or terminating telephone toll service. 59410

(8) "Local service area" means the geographic area that may 59411  
encompass more than one exchange area and within which a telephone 59412  
customer, by paying the rate for basic local exchange service, may 59413  
complete calls to other telephone customers without being assessed 59414  
long distance toll charges. 59415

(9) "Small business" means a nonresidential service customer 59416  
with three or fewer service access lines. 59417

(10) "Telecommunications" means the transmission, between or 59418  
among points specified by the user, of information of the user's 59419  
choosing, without change in the form or content of the information 59420  
as sent and received. 59421

(11) "Telecommunications carrier" has the same meaning as in 59422  
the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153. 59423

(12) "Telecommunications service" means the offering of 59424  
telecommunications for a fee directly to the public, or to such 59425  
classes of users as to be effectively available directly to the 59426  
public, regardless of the facilities used. 59427

(13) "Telephone company" means a company described in 59428  
division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a 59429  
public utility under section 4905.02 of the Revised Code. 59430

(14) "Telephone exchange service" means telecommunications 59431  
service that is within a telephone exchange, or within a connected 59432  
system of telephone exchanges within the same exchange area 59433  
operated to furnish to subscribers intercommunicating service of 59434  
the character ordinarily furnished by a single exchange, and that 59435  
is covered by the exchange service charge; or comparable service 59436  
provided through a system of switches, transmission equipment, or 59437  
other facilities, or combination thereof, by which a customer can 59438  
originate and terminate a telecommunications service. 59439

(15) "Telephone toll service" means telephone service between 59440  
stations in different exchange areas for which there is made a 59441  
separate charge not included in contracts with customers for 59442  
exchange service. 59443

(16) "Voice over internet protocol service" means a service 59444  
that uses a broadband connection from an end user's location and 59445  
enables real-time, two-way, voice communications that originate or 59446  
terminate from the user's location using internet protocol or a 59447  
successor protocol, including, but not limited to, any such 59448  
service that permits an end user to receive calls from and 59449  
terminate calls to the public switched network. 59450

(17) "Wireless service" means federally licensed commercial 59451  
mobile service as defined in the "Telecommunications Act of 1996," 59452  
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 59453  
commercial mobile radio service in 47 C.F.R. 20.3. Under division 59454  
(A)(17) of this section, commercial mobile radio service is 59455  
specifically limited to mobile telephone, mobile cellular 59456  
telephone, paging, personal communications services, and 59457  
specialized mobile radio service provided by a common carrier in 59458  
this state and excludes fixed wireless service. 59459

(18) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state. 59460  
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(B) The definitions of this section shall be applied consistent with the definitions in the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with federal decisions interpreting those definitions. 59463  
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**Sec. 4929.01.** As used in this chapter: 59467

(A) "Alternative rate plan" means a method, alternate to the method of section 4909.15 of the Revised Code, for establishing rates and charges, under which rates and charges may be established for a commodity sales service or ancillary service that is not exempt pursuant to section 4929.04 of the Revised Code or for a distribution service. Alternative rate plans may include, but are not limited to, methods that provide adequate and reliable natural gas services and goods in this state; minimize the costs and time expended in the regulatory process; tend to assess the costs of any natural gas service or goods to the entity, service, or goods that cause such costs to be incurred; afford rate stability; promote and reward efficiency, quality of service, or cost containment by a natural gas company; provide sufficient flexibility and incentives to the natural gas industry to achieve high quality, technologically advanced, and readily available natural gas services and goods at just and reasonable rates and charges; or establish revenue decoupling mechanisms. Alternative rate plans also may include, but are not limited to, automatic adjustments based on a specified index or changes in a specified cost or costs. 59468  
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(B) "Ancillary service" means a service that is ancillary to the receipt or delivery of natural gas to consumers, including, but not limited to, storage, pooling, balancing, and transmission. 59488  
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(C) "Commodity sales service" means the sale of natural gas 59491  
to consumers, exclusive of any distribution or ancillary service. 59492

(D) "Comparable service" means any regulated service or goods 59493  
whose availability, quality, price, terms, and conditions are the 59494  
same as or better than those of the services or goods that the 59495  
natural gas company provides to a person with which it is 59496  
affiliated or which it controls, or, as to any consumer, that the 59497  
natural gas company offers to that consumer as part of a bundled 59498  
service that includes both regulated and exempt services or goods. 59499

(E) "Consumer" means any person or association of persons 59500  
purchasing, delivering, storing, or transporting, or seeking to 59501  
purchase, deliver, store, or transport, natural gas, including 59502  
industrial consumers, commercial consumers, and residential 59503  
consumers, but not including natural gas companies. 59504

(F) "Distribution service" means the delivery of natural gas 59505  
to a consumer at the consumer's facilities, by and through the 59506  
instrumentalities and facilities of a natural gas company, 59507  
regardless of the party having title to the natural gas. 59508

(G) "Natural gas company" means a natural gas company, as 59509  
defined in section 4905.03 of the Revised Code, that is a public 59510  
utility as defined in section 4905.02 of the Revised Code and 59511  
excludes a retail natural gas supplier. 59512

(H) "Person," except as provided in division (N) of this 59513  
section, has the same meaning as in section 1.59 of the Revised 59514  
Code, and includes this state and any political subdivision, 59515  
agency, or other instrumentality of this state and includes the 59516  
United States and any agency or other instrumentality of the 59517  
United States. 59518

(I) "Billing or collection agent" means a fully independent 59519  
agent, not affiliated with or otherwise controlled by a retail 59520  
natural gas supplier or governmental aggregator subject to 59521

certification under section 4929.20 of the Revised Code, to the 59522  
extent that the agent is under contract with such supplier or 59523  
aggregator solely to provide billing and collection for 59524  
competitive retail natural gas service on behalf of the supplier 59525  
or aggregator. 59526

(J) "Competitive retail natural gas service" means any retail 59527  
natural gas service that may be competitively offered to consumers 59528  
in this state as a result of revised schedules approved under 59529  
division (C) of section 4929.29 of the Revised Code, a rule or 59530  
order adopted or issued by the public utilities commission under 59531  
Chapter 4905. of the Revised Code, or an exemption granted by the 59532  
commission under sections 4929.04 to 4929.08 of the Revised Code. 59533

(K) "Governmental aggregator" means either of the following: 59534

(1) A legislative authority of a municipal corporation, a 59535  
board of township trustees, or a board of county commissioners 59536  
acting exclusively under section 4929.26 or 4929.27 of the Revised 59537  
Code as an aggregator for the provision of competitive retail 59538  
natural gas service; 59539

(2) A municipal corporation acting exclusively under Section 59540  
4 of Article XVIII, Ohio Constitution, as an aggregator for the 59541  
provision of competitive retail natural gas service. 59542

(L)(1) "Mercantile customer" means a customer that consumes, 59543  
other than for residential use, more than five hundred thousand 59544  
cubic feet of natural gas per year at a single location within 59545  
this state or consumes natural gas, other than for residential 59546  
use, as part of an undertaking having more than three locations 59547  
within or outside of this state. "Mercantile customer" excludes a 59548  
customer for which a declaration under division (L)(2) of this 59549  
section is in effect pursuant to that division. 59550

(2) A not-for-profit customer that consumes, other than for 59551  
residential use, more than five hundred thousand cubic feet of 59552

natural gas per year at a single location within this state or 59553  
consumes natural gas, other than for residential use, as part of 59554  
an undertaking having more than three locations within or outside 59555  
this state may file a declaration under division (L)(2) of this 59556  
section with the public utilities commission. The declaration 59557  
shall take effect upon the date of filing, and by virtue of the 59558  
declaration, the customer is not a mercantile customer for the 59559  
purposes of this section and sections 4929.20 to 4929.29 of the 59560  
Revised Code or the purposes of a governmental natural gas 59561  
aggregation or arrangement or other contract entered into after 59562  
the declaration's effective date for the supply or arranging of 59563  
the supply of natural gas to the customer to a location within 59564  
this state. The customer may file a rescission of the declaration 59565  
with the commission at any time. The rescission shall not affect 59566  
any governmental natural gas aggregation or arrangement or other 59567  
contract entered into by the customer prior to the date of the 59568  
filing of the rescission and shall have effect only with respect 59569  
to any subsequent such aggregation or arrangement or other 59570  
contract. The commission shall prescribe rules under section 59571  
4929.10 of the Revised Code specifying the form of the declaration 59572  
or a rescission and procedures by which a declaration or 59573  
rescission may be filed. 59574

(M) "Retail natural gas service" means commodity sales 59575  
service, ancillary service, natural gas aggregation service, 59576  
natural gas marketing service, or natural gas brokerage service. 59577

(N) "Retail natural gas supplier" means any person, as 59578  
defined in section 1.59 of the Revised Code, that is engaged on a 59579  
for-profit or not-for-profit basis in the business of supplying or 59580  
arranging for the supply of a competitive retail natural gas 59581  
service to consumers in this state that are not mercantile 59582  
customers. "Retail natural gas supplier" includes a marketer, 59583  
broker, or aggregator, but excludes a natural gas company, a 59584

governmental aggregator as defined in division (K)(1) or (2) of 59585  
this section, an entity described in division ~~(B)~~(A)(2) or ~~(C)~~(3) 59586  
of section 4905.02 of the Revised Code, or a billing or collection 59587  
agent, and excludes a producer or gatherer of gas to the extent 59588  
such producer or gatherer is not a natural gas company under 59589  
section 4905.03 of the Revised Code. 59590

(O) "Revenue decoupling mechanism" means a rate design or 59591  
other cost recovery mechanism that provides recovery of the fixed 59592  
costs of service and a fair and reasonable rate of return, 59593  
irrespective of system throughput or volumetric sales. 59594

**Sec. 4929.02.** (A) It is the policy of this state to, 59595  
throughout this state: 59596

(1) Promote the availability to consumers of adequate, 59597  
reliable, and reasonably priced natural gas services and goods; 59598

(2) Promote the availability of unbundled and comparable 59599  
natural gas services and goods that provide wholesale and retail 59600  
consumers with the supplier, price, terms, conditions, and quality 59601  
options they elect to meet their respective needs; 59602

(3) Promote diversity of natural gas supplies and suppliers, 59603  
by giving consumers effective choices over the selection of those 59604  
supplies and suppliers; 59605

(4) Encourage innovation and market access for cost-effective 59606  
supply- and demand-side natural gas services and goods; 59607

(5) Encourage cost-effective and efficient access to 59608  
information regarding the operation of the distribution systems of 59609  
natural gas companies in order to promote effective customer 59610  
choice of natural gas services and goods; 59611

(6) Recognize the continuing emergence of competitive natural 59612  
gas markets through the development and implementation of flexible 59613  
regulatory treatment; 59614

(7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code;

(8) Promote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods;

(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 gas company in substantial compliance with the policy specified in section 4929.02 of the Revised Code, shall exempt grant a regulatory exemption, by order, any investment for either or both of the following:

(1) Any investments in gathering lines or storage or gathering facilities placed into service on or after January 1, 2010, and also any service of the natural gas company related to those gathering lines or storage facilities 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;

(2) Any investments in gathering facilities placed into service before January 1, 2010, and also any service of the natural gas company related to those facilities.

(C)(1) A natural gas company requesting a regulatory exemption under division (B)(2) of this section shall identify in the application both of the following:

(a) The valuation of the investments to be exempted, as determined under division (A)(1) of section 4909.15 of the Revised

Code, in the rate case proceeding that established the company's rates in effect at the time of the filing of the application requesting the regulatory exemption; 59677  
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(b) The valuation of all nonexempt investments placed into service after the date certain used in the rate case proceeding described in division (C)(1)(a) of this section, excluding investments for which deferral or recovery is authorized under section 4909.18, 4929.05, or 4929.111 of the Revised Code. 59680  
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(2) The commission shall compare the valuations identified in divisions (C)(1)(a) and (b) of this section. 59685  
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(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. 59687  
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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. 59697  
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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 59702  
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service related to an investment exempted under the regulatory 59708  
exemption ~~order~~ from the operations, resources, and employees, and 59709  
the associated books and records, involved in the provision or 59710  
marketing of any company-provided service not exempted under the 59711  
regulatory exemption ~~order~~ or any other section of the Revised 59712  
Code. 59713

(2) An order granting regulatory exemption ~~order issued under~~ 59714  
~~division (A) of this section~~ shall prescribe a functional 59715  
separation plan for compliance with division ~~(B)~~(D)(1) of this 59716  
section. 59717

~~(C)~~(E)(1) No natural gas company subject to ~~an a regulatory~~ 59718  
exemption ~~order issued under division (A) of this section~~ may use 59719  
the company's storage ~~facilities and~~ or gathering lines facilities 59720  
associated with the regulatory exemption ~~order~~ to provide a 59721  
commodity sales service that is unregulated or subject to an 59722  
exemption order issued under section 4929.04 of the Revised Code. 59723  
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(2) Upon application to the commission by a natural gas 59725  
company and upon a finding of good cause shown, the commission 59726  
may, by order, waive the prohibition described in division 59727  
~~(C)~~(E)(1) of this section. The natural gas company shall bear the 59728  
burden of proof that the waiver is just and reasonable, which 59729  
shall constitute good cause. 59730

~~(D)~~(F) The commission shall have continuous jurisdiction to 59731  
enforce any terms that it imposes in ~~an a regulatory~~ exemption 59732  
~~order issued under division (A) of this section~~. Whenever the 59733  
commission is of the opinion, after hearing had upon complaint or 59734  
upon its own initiative or complaint, served as provided in 59735  
section 4905.26 of the Revised Code, that ~~an a regulatory~~ 59736  
exemption ~~order issued under division (A) of this section~~ has 59737  
adversely affected the quality, adequacy, or sufficiency of 59738  
service provided by the company subject to the regulatory 59739

exemption ~~order~~, the commission may alter, amend, or suspend the 59740  
regulatory exemption ~~order~~. 59741

**Sec. 4933.18.** (A) In a prosecution for a theft offense, as 59742  
defined in section 2913.01 of the Revised Code, that involves 59743  
alleged tampering with a gas, electric, steam, or water meter, 59744  
conduit, or attachment of a utility that has been disconnected by 59745  
the utility, proof that a meter, conduit, or attachment of a 59746  
utility has been tampered with is prima-facie evidence that the 59747  
person who is obligated to pay for the service rendered through 59748  
the meter, conduit, or attachment and is in possession or control 59749  
of the meter, conduit, or attachment at the time the tampering 59750  
occurred has caused the tampering with intent to commit a theft 59751  
offense. 59752

In a prosecution for a theft offense, as defined in section 59753  
2913.01 of the Revised Code, that involves the alleged 59754  
reconnection of a gas, electric, steam, or water meter, conduit, 59755  
or attachment of a utility that has been disconnected by the 59756  
utility, proof that a meter, conduit, or attachment disconnected 59757  
by a utility has been reconnected without the consent of the 59758  
utility is prima-facie evidence that the person in possession or 59759  
control of the meter, conduit, or attachment at the time of the 59760  
reconnection has reconnected the meter, conduit, or attachment 59761  
with intent to commit a theft offense. 59762

(B) As used in this section: 59763

(1) "Utility" means any electric light company, gas company, 59764  
natural gas company, pipe-line company, water-works company, or 59765  
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 59766  
~~(5), (6), (7)~~ (C), (D), (E), (F), (G), or ~~(8)~~ (H) of section 4905.03 59767  
of the Revised Code, its lessees, trustees, or receivers, or any 59768  
similar utility owned or operated by a political subdivision. 59769

(2) "Tamper" means to interfere with, damage, or by-pass a 59770

utility meter, conduit, or attachment with the intent to impede 59771  
the correct registration of a meter or the proper functions of a 59772  
conduit or attachment so as to reduce the amount of utility 59773  
service that is registered on the meter. 59774

**Sec. 4933.19.** Each electric light company, gas company, 59775  
natural gas company, pipe-line company, water-works company, or 59776  
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 59777  
~~(5), (6), (7),~~ (C), (D), (E), (F), (G), or ~~(8)~~ (H) of section 59778  
4905.03 of the Revised Code, or its lessees, trustees, or 59779  
receivers, and each similar utility owned or operated by a 59780  
political subdivision shall notify its customers, on an annual 59781  
basis, that tampering with or bypassing a meter constitutes a 59782  
theft offense that could result in the imposition of criminal 59783  
sanctions. 59784

**Sec. 4939.01.** As used in sections 4939.01 to 4939.08 of the 59785  
Revised Code: 59786

(A) "Cable operator," "cable service," and "franchise" have 59787  
the same meanings as in the "Cable Communications Policy Act of 59788  
1984," 98 Stat. 2779, 47 U.S.C.A. 522. 59789

(B) "Occupy or use" means, with respect to a public way, to 59790  
place a tangible thing in a public way for any purpose, including, 59791  
but not limited to, constructing, repairing, positioning, 59792  
maintaining, or operating lines, poles, pipes, conduits, ducts, 59793  
equipment, or other structures, appurtenances, or facilities 59794  
necessary for the delivery of public utility services or any 59795  
services provided by a cable operator. 59796

(C) "Person" means any natural person, corporation, or 59797  
partnership and also includes any governmental entity. 59798

(D) "Public utility" means any company described in section 59799  
4905.03 of the Revised Code except in divisions ~~(A)(2)~~ (B) and 59800

~~(9)~~(I) of that section, which company also is a public utility as defined in section 4905.02 of the Revised Code; and includes any electric supplier as defined in section 4933.81 of the Revised Code. 59801  
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(E) "Public way" means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, and any other land dedicated or otherwise designated for a compatible public use, which, on or after ~~the effective date of this section~~ July 2, 2002, is owned or controlled by a municipal corporation. "Public way" excludes a private easement. 59805  
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(F) "Public way fee" means a fee levied to recover the costs incurred by a municipal corporation and associated with the occupancy or use of a public way. 59814  
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**Sec. 4953.04.** No union terminal company or corporation shall engage in the business of a for-hire motor transportation service carrier, as defined in ~~sections 4905.03, 4921.02, and 4923.02~~ 4921.01 of the Revised Code, over any public highway in this state, without obtaining authority from the public utilities commission, and complying with all laws governing every corporation or company when engaged or proposing to engage in ~~such~~ the business of a for-hire motor transportation service carrier. 59817  
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**Sec. 4961.03.** Any railroad company owning or operating a railroad in this state may own, control, operate, or manage motor vehicles for the purpose of transporting persons or property, or both, upon the public highways for hire, subject to ~~sections 4921.02 to 4921.32, inclusive,~~ Chapters 4921. and 4923. of the Revised Code. Any railroad company may also own and operate 59825  
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equipment for and engage in the business of aerial transportation. 59831  
Any railroad company may acquire, own, and hold capital stock and 59832  
securities of corporations organized for or engaged in the 59833  
businesses authorized in this section and may operate the 59834  
properties, or any part thereof, of such corporations, and may 59835  
enter into working arrangements and agreements with such 59836  
corporations. 59837

**Sec. 4965.54.** Any common carrier, railroad, or ~~transportation~~ 59838  
~~company~~ motor carrier receiving property at a point within this 59839  
state for transportation to a point within this state, shall issue 59840  
a receipt or bill of lading for such property and is liable to the 59841  
lawful holder of it for any loss, damage, or injury to such 59842  
property caused by it or by any common carrier, railroad, or 59843  
transportation company to which such property is delivered or over 59844  
whose line such property passes. No contract, receipt, rule, or 59845  
regulation shall exempt such common carrier, railroad, or 59846  
~~transportation company~~ motor carrier from the liability imposed by 59847  
this section. This section does not deprive any holder of such 59848  
receipt or bill of lading of any remedy or right of action which 59849  
~~he~~ the holder has under existing law. 59850

The common carrier, railroad, or ~~transportation company~~ motor 59851  
carrier issuing such receipt or bill of lading may recover from 59852  
the common carrier, railroad, or ~~transportation company~~ motor 59853  
carrier on whose line the loss, damage, or injury was sustained 59854  
the amount of such loss, damage, or injury it is required to pay 59855  
the owners of such property as is evidenced by any receipt, 59856  
judgment, or transcript thereof. 59857

As used in this section, "motor carrier" has the same meaning 59858  
as in section 4923.01 of the Revised Code. 59859

**Sec. 5101.01.** (A) As used in the Revised Code, the 59860

"department of public welfare" and the "department of human services" mean the department of job and family services and the "director of public welfare" and the "director of human services" mean the director of job and family services. Whenever the department or director of public welfare or the department or director of human services is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to the department or director of job and family services, as the case may be.

(B) As used in this chapter ~~of the Revised Code~~: 59870

(1) References ~~to counties or to a county departments~~ department of job and family services include ~~the~~ a joint county department of job and family services established under section 329.40 of the Revised Code. 59871-59874

(2) References to ~~boards~~ a board of county commissioners include ~~boards~~ the board of directors of ~~the~~ a joint county department of job and family services established under section 329.40 of the Revised Code. 59875-59878

**Sec. 5101.46.** (A) As used in this section: 59879

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 59880-59881

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities. 59882-59887

(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 59888-59890

Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 59891  
9902, as amended, for a family size equal to the size of the 59892  
family of the person whose income is being determined. 59893

(B) The departments of job and family services, mental 59894  
health, and developmental disabilities, with their respective 59895  
local agencies, shall administer the provision of social services 59896  
funded through grants made under Title XX. The social services 59897  
furnished with Title XX funds shall be directed at the following 59898  
goals: 59899

(1) Achieving or maintaining economic self-support to 59900  
prevent, reduce, or eliminate dependency; 59901

(2) Achieving or maintaining self-sufficiency, including 59902  
reduction or prevention of dependency; 59903

(3) Preventing or remedying neglect, abuse, or exploitation 59904  
of children and adults unable to protect their own interests, or 59905  
preserving, rehabilitating, or reuniting families; 59906

(4) Preventing or reducing inappropriate institutional care 59907  
by providing for community-based care, home-based care, or other 59908  
forms of less intensive care; 59909

(5) Securing referral or admission for institutional care 59910  
when other forms of care are not appropriate, or providing 59911  
services to individuals in institutions. 59912

(C)(1) All federal funds received under Title XX shall be 59913  
appropriated as follows: 59914

(a) Seventy-two and one-half per cent to the department of 59915  
job and family services; 59916

(b) Twelve and ninety-three ~~one-hundredths~~ one-hundredths per 59917  
cent to the department of mental health; 59918

(c) Fourteen and fifty-seven ~~one-hundredths~~ one-hundredths per 59919  
cent to the department of developmental disabilities. 59920

(2) Each of the state departments shall, subject to the approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies:

(a) The total population of the area that is served by the respective local agency;

(b) The percentage of the population in the area served that falls below the federal poverty guidelines;

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend for state administrative costs not more than three per cent of the Title XX funds appropriated to the department.

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services shall expend for the training of the following not more than two per cent of the Title XX funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services. 59951  
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(D) The department of job and family services shall prepare a ~~biennial~~ an annual comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion. 59953  
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For each ~~state~~ federal fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection. 59958  
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The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each ~~biennial~~ annual plan and ~~annual~~ report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of ~~biennial~~ annual plans and ~~annual~~ reports. 59962  
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(E) Each county department of job and family services shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services. 59970  
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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 59979  
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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 services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with

Chapter 119. of the Revised Code. 60014

**Sec. 5101.60.** As used in sections 5101.60 to 5101.71 of the Revised Code: 60015  
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(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish. 60017  
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(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes ~~an adult care~~ a residential facility licensed pursuant to Chapter 5119. under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment. 60020  
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(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction. 60035  
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(D) "Court" means the probate court in the county where an adult resides. 60039  
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(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. 60041  
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(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.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

**Sec. 5101.61.** (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an 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;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel,

including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which

provides community mental health services and is included in the 60134  
comprehensive mental health plan for the alcohol, drug addiction, 60135  
and mental health service district in which it is located. 60136

(4) "Community mental health service" means services, other 60137  
than inpatient services, provided by a community mental health 60138  
facility. 60139

(5) "Home health agency" means an institution or a distinct 60140  
part of an institution operated in this state which: 60141

(a) Is primarily engaged in providing home health services; 60142

(b) Has home health policies which are established by a group 60143  
of professional personnel, including one or more duly licensed 60144  
doctors of medicine or osteopathy and one or more registered 60145  
professional nurses, to govern the home health services it 60146  
provides and which includes a requirement that every patient must 60147  
be under the care of a duly licensed doctor of medicine or 60148  
osteopathy; 60149

(c) Is under the supervision of a duly licensed doctor of 60150  
medicine or doctor of osteopathy or a registered professional 60151  
nurse who is responsible for the execution of such home health 60152  
policies; 60153

(d) Maintains comprehensive records on all patients; 60154

(e) Is operated by the state, a political subdivision, or an 60155  
agency of either, or is operated not for profit in this state and 60156  
is licensed or registered, if required, pursuant to law by the 60157  
appropriate department of the state, county, or municipality in 60158  
which it furnishes services; or is operated for profit in this 60159  
state, meets all the requirements specified in divisions (A)(5)(a) 60160  
to (d) of this section, and is certified under Title XVIII of the 60161  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 60162  
amended. 60163

(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:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;

(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;

(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;

(e) Medical supplies and the use of medical appliances;

(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;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(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.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in

section 3701.01 of the Revised Code, any nurse licensed under 60194  
Chapter 4723. of the Revised Code, any employee of an ambulatory 60195  
health facility, any employee of a home health agency, any 60196  
employee of ~~an adult care~~ a residential facility as defined in 60197  
licensed under section ~~5119.70~~ 5119.22 of the Revised Code that 60198  
provides accommodations, supervision, and personal care services 60199  
for three to sixteen unrelated adults, any employee of a nursing 60200  
home, residential care facility, or home for the aging, as defined 60201  
in section 3721.01 of the Revised Code, any senior service 60202  
provider, any peace officer, coroner, ~~clergyman~~ member of the 60203  
clergy, any employee of a community mental health facility, and 60204  
any person engaged in social work or counseling having reasonable 60205  
cause to believe that an adult is being abused, neglected, or 60206  
exploited, or is in a condition which is the result of abuse, 60207  
neglect, or exploitation shall immediately report such belief to 60208  
the county department of job and family services. This section 60209  
does not apply to employees of any hospital or public hospital as 60210  
defined in section 5122.01 of the Revised Code. 60211

(B) Any person having reasonable cause to believe that an 60212  
adult has suffered abuse, neglect, or exploitation may report, or 60213  
cause reports to be made of such belief to the department. 60214

(C) The reports made under this section shall be made orally 60215  
or in writing except that oral reports shall be followed by a 60216  
written report if a written report is requested by the department. 60217  
Written reports shall include: 60218

(1) The name, address, and approximate age of the adult who 60219  
is the subject of the report; 60220

(2) The name and address of the individual responsible for 60221  
the adult's care, if any individual is, and if the individual is 60222  
known; 60223

(3) The nature and extent of the alleged abuse, neglect, or 60224

exploitation of the adult; 60225

(4) The basis of the reporter's belief that the adult has 60226  
been abused, neglected, or exploited. 60227

(D) Any person with reasonable cause to believe that an adult 60228  
is suffering abuse, neglect, or exploitation who makes a report 60229  
pursuant to this section or who testifies in any administrative or 60230  
judicial proceeding arising from such a report, or any employee of 60231  
the state or any of its subdivisions who is discharging 60232  
responsibilities under section 5101.62 of the Revised Code shall 60233  
be immune from civil or criminal liability on account of such 60234  
investigation, report, or testimony, except liability for perjury, 60235  
unless the person has acted in bad faith or with malicious 60236  
purpose. 60237

(E) No employer or any other person with the authority to do 60238  
so shall discharge, demote, transfer, prepare a negative work 60239  
performance evaluation, or reduce benefits, pay, or work 60240  
privileges, or take any other action detrimental to an employee or 60241  
in any way retaliate against an employee as a result of the 60242  
employee's having filed a report under this section. 60243

(F) Neither the written or oral report provided for in this 60244  
section nor the investigatory report provided for in section 60245  
5101.62 of the Revised Code shall be considered a public record as 60246  
defined in section 149.43 of the Revised Code. Information 60247  
contained in the report shall upon request be made available to 60248  
the adult who is the subject of the report, to agencies authorized 60249  
by the department to receive information contained in the report, 60250  
and to legal counsel for the adult. 60251

**Sec. 5101.97.** (A)(1) Not later than the last day of each 60252  
January, April, July, and January October, the department of job 60253  
and family services shall complete a report on the characteristics 60254  
of the individuals who participate in or receive services through 60255

the programs operated by the department and the outcomes of the 60256  
individuals' participation in or receipt of services through the 60257  
programs. The reports shall be for the ~~six-month~~ three-month 60258  
periods ending on the last days of March, June, September, and 60259  
December and shall include information on the following: 60260

(a) Work activities, developmental activities, and 60261  
alternative work activities established under sections 5107.40 to 60262  
5107.69 of the Revised Code; 60263

(b) Programs of publicly funded child care, as defined in 60264  
section 5104.01 of the Revised Code; 60265

(c) Child support enforcement programs; 60266

(d) Births to recipients of the ~~medical assistance~~ medicaid 60267  
program established under Chapter 5111. of the Revised Code. 60268

(2) The department shall submit the reports required under 60269  
division (A)(1) of this section to the speaker and minority leader 60270  
of the house of representatives, the president and minority leader 60271  
of the senate, the legislative budget officer, the director of 60272  
budget and management, and each board of county commissioners. The 60273  
department shall provide copies of the reports to any person or 60274  
government entity on request. 60275

In designing the format for the reports, the department shall 60276  
consult with individuals, organizations, and government entities 60277  
interested in the programs operated by the department, so that the 60278  
reports are designed to enable the general assembly and the public 60279  
to evaluate the effectiveness of the programs and identify any 60280  
needs that the programs are not meeting. 60281

(B) Whenever the federal government requires that the 60282  
department submit a report on a program that is operated by the 60283  
department or is otherwise under the department's jurisdiction, 60284  
the department shall prepare and submit the report in accordance 60285  
with the federal requirements applicable to that report. To the 60286

extent possible, the department may coordinate the preparation and 60287  
submission of a particular report with any other report, plan, or 60288  
other document required to be submitted to the federal government, 60289  
as well as with any report required to be submitted to the general 60290  
assembly. The reports required by the Personal Responsibility and 60291  
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 60292  
submitted as an annual summary. 60293

**Sec. 5104.012.** (A)(1) At the times specified in this 60294  
division, the administrator of a child day-care center or a type A 60295  
family day-care home shall request the superintendent of the 60296  
bureau of criminal identification and investigation to conduct a 60297  
criminal records check with respect to any applicant who has 60298  
applied to the center or type A home for employment as a person 60299  
responsible for the care, custody, or control of a child. 60300

The administrator shall request a criminal records check 60301  
pursuant to this division at the time of the applicant's initial 60302  
application for employment and every four years thereafter. When 60303  
the administrator requests pursuant to this division a criminal 60304  
records check for an applicant at the time of the applicant's 60305  
initial application for employment, the administrator shall 60306  
request that the superintendent obtain information from the 60307  
federal bureau of investigation as a part of the criminal records 60308  
check for the applicant, including fingerprint-based checks of 60309  
national crime information databases as described in 42 U.S.C. 60310  
671, for the person subject to the criminal records check. In all 60311  
other cases in which the administrator requests a criminal records 60312  
check for an applicant pursuant to this division, the 60313  
administrator may request that the superintendent include 60314  
information from the federal bureau of investigation in the 60315  
criminal records check, including fingerprint-based checks of 60316  
national crime information databases as described in 42 U.S.C. 60317  
671. 60318

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. On and after 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, 60351  
custody, or control of a child if the person previously has been 60352  
convicted of or pleaded guilty to any of the violations described 60353  
in division (A)~~(9)~~(6) of section 109.572 of the Revised Code. 60354

(2) A child day-care center or type A family day-care home 60355  
may employ an applicant conditionally until the criminal records 60356  
check required by this section is completed and the center or home 60357  
receives the results of the criminal records check. If the results 60358  
of the criminal records check indicate that, pursuant to division 60359  
(B)(1) of this section, the applicant does not qualify for 60360  
employment, the center or home shall release the applicant from 60361  
employment. 60362

(C)(1) Each child day-care center and type A family day-care 60363  
home shall pay to the bureau of criminal identification and 60364  
investigation the fee prescribed pursuant to division (C)(3) of 60365  
section 109.572 of the Revised Code for each criminal records 60366  
check conducted in accordance with that section upon the request 60367  
pursuant to division (A)(1) of this section of the administrator 60368  
or provider of the center or home. 60369

(2) A child day-care center and type A family day-care home 60370  
may charge an applicant a fee for the costs it incurs in obtaining 60371  
a criminal records check under this section. A fee charged under 60372  
this division shall not exceed the amount of fees the center or 60373  
home pays under division (C)(1) of this section. If a fee is 60374  
charged under this division, the center or home shall notify the 60375  
applicant at the time of the applicant's initial application for 60376  
employment of the amount of the fee and that, unless the fee is 60377  
paid, the center or type A home will not consider the applicant 60378  
for employment. 60379

(D) The report of any criminal records check conducted by the 60380  
bureau of criminal identification and investigation in accordance 60381  
with section 109.572 of the Revised Code and pursuant to a request 60382

under division (A)(1) of this section is not a public record for 60383  
the purposes of section 149.43 of the Revised Code and shall not 60384  
be made available to any person other than the applicant who is 60385  
the subject of the criminal records check or the applicant's 60386  
representative; the center or type A home requesting the criminal 60387  
records check or its representative; the department of job and 60388  
family services or a county department of job and family services; 60389  
and any court, hearing officer, or other necessary individual 60390  
involved in a case dealing with the denial of employment to the 60391  
applicant. 60392

(E) The director of job and family services shall adopt rules 60393  
pursuant to Chapter 119. of the Revised Code to implement this 60394  
section, including rules specifying circumstances under which a 60395  
center or home may hire a person who has been convicted of an 60396  
offense listed in division (B)(1) of this section but who meets 60397  
standards in regard to rehabilitation set by the department. 60398

(F) Any person required by division (A)(1) of this section to 60399  
request a criminal records check shall inform each person, at the 60400  
time of the person's initial application for employment, that the 60401  
person is required to provide a set of impressions of the person's 60402  
fingerprints and that a criminal records check is required to be 60403  
conducted and satisfactorily completed in accordance with section 60404  
109.572 of the Revised Code if the person comes under final 60405  
consideration for appointment or employment as a precondition to 60406  
employment for that position. 60407

(G) As used in this section: 60408

(1) "Applicant" means a person who is under final 60409  
consideration for appointment to or employment in a position with 60410  
a child day-care center or a type A family day-care home as a 60411  
person responsible for the care, custody, or control of a child; 60412  
an in-home aide certified pursuant to section 5104.12 of the 60413  
Revised Code; or any person who would serve in any position with a 60414

child day-care center or a type A family day-care home as a person 60415  
responsible for the care, custody, or control of a child pursuant 60416  
to a contract with another entity. 60417

(2) "Criminal records check" has the same meaning as in 60418  
section 109.572 of the Revised Code. 60419

**Sec. 5104.013.** (A)(1) At the times specified in division 60420  
(A)(3) of this section, the director of job and family services, 60421  
as part of the process of licensure of child day-care centers and 60422  
type A family day-care homes, shall request the superintendent of 60423  
the bureau of criminal identification and investigation to conduct 60424  
a criminal records check with respect to the following persons: 60425

(a) Any owner, licensee, or administrator of a child day-care 60426  
center; 60427

(b) Any owner, licensee, or administrator of a type A family 60428  
day-care home and any person eighteen years of age or older who 60429  
resides in a type A family day-care home. 60430

(2) At the times specified in division (A)(3) of this 60431  
section, the director of a county department of job and family 60432  
services, as part of the process of certification of type B family 60433  
day-care homes, shall request the superintendent of the bureau of 60434  
criminal identification and investigation to conduct a criminal 60435  
records check with respect to any authorized provider of a 60436  
certified type B family day-care home and any person eighteen 60437  
years of age or older who resides in a certified type B family 60438  
day-care home. 60439

(3) The director of job and family services shall request a 60440  
criminal records check pursuant to division (A)(1) of this section 60441  
at the time of the initial application for licensure and every 60442  
four years thereafter. The director of a county department of job 60443  
and family services shall request a criminal records check 60444

pursuant to division (A)(2) of this section at the time of the 60445  
initial application for certification and every four years 60446  
thereafter at the time of a certification renewal. When the 60447  
director of job and family services or the director of a county 60448  
department of job and family services requests pursuant to 60449  
division (A)(1) or (2) of this section a criminal records check 60450  
for a person at the time of the person's initial application for 60451  
licensure or certification, the director shall request that the 60452  
superintendent of the bureau of criminal identification and 60453  
investigation obtain information from the federal bureau of 60454  
investigation as a part of the criminal records check for the 60455  
person, including fingerprint-based checks of national crime 60456  
information databases as described in 42 U.S.C. 671 for the person 60457  
subject to the criminal records check. In all other cases in which 60458  
the director of job and family services or the director of a 60459  
county department of job and family services requests a criminal 60460  
records check for an applicant pursuant to division (A)(1) or (2) 60461  
of this section, the director may request that the superintendent 60462  
include information from the federal bureau of investigation in 60463  
the criminal records check, including fingerprint-based checks of 60464  
national crime information databases as described in 42 U.S.C. 60465  
671. 60466

(4) The director of job and family services shall review the 60467  
results of a criminal records check subsequent to a request made 60468  
pursuant to divisions (A)(1) and (3) of this section prior to 60469  
approval of a license. The director of a county department of job 60470  
and family services shall review the results of a criminal records 60471  
check subsequent to a request made pursuant to divisions (A)(2) 60472  
and (3) of this section prior to approval of certification. 60473

(B) The director of job and family services or the director 60474  
of a county department of job and family services shall provide to 60475  
each person for whom a criminal records check is required under 60476

this section a copy of the form prescribed pursuant to division 60477  
(C)(1) of section 109.572 of the Revised Code and a standard 60478  
impression sheet to obtain fingerprint impressions prescribed 60479  
pursuant to division (C)(2) of that section, obtain the completed 60480  
form and impression sheet from that person, and forward the 60481  
completed form and impression sheet to the superintendent of the 60482  
bureau of criminal identification and investigation. 60483

(C) A person who receives pursuant to division (B) of this 60484  
section a copy of the form and standard impression sheet described 60485  
in that division and who is requested to complete the form and 60486  
provide a set of fingerprint impressions shall complete the form 60487  
or provide all the information necessary to complete the form and 60488  
shall provide the impression sheet with the impressions of the 60489  
person's fingerprints. If the person, upon request, fails to 60490  
provide the information necessary to complete the form or fails to 60491  
provide impressions of the person's fingerprints, the director may 60492  
consider the failure as a reason to deny licensure or 60493  
certification. 60494

(D) Except as provided in rules adopted under division (G) of 60495  
this section, the director of job and family services shall not 60496  
grant a license to a child day-care center or type A family 60497  
day-care home and a county director of job and family services 60498  
shall not certify a type B family day-care home if a person for 60499  
whom a criminal records check was required in connection with the 60500  
center or home previously has been convicted of or pleaded guilty 60501  
to any of the violations described in division (A)~~(9)~~(6) of 60502  
section 109.572 of the Revised Code. 60503

(E) Each child day-care center, type A family day-care home, 60504  
and type B family day-care home shall pay to the bureau of 60505  
criminal identification and investigation the fee prescribed 60506  
pursuant to division (C)(3) of section 109.572 of the Revised Code 60507  
for each criminal records check conducted in accordance with that 60508

section upon a request made pursuant to division (A) of this section. 60509  
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(F) 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 (A) 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 person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check. 60511  
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(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the ~~department~~ director. 60524  
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(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code. 60531  
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**Sec. 5104.051.** (A)(1) The department of commerce is responsible for the inspections of child day-care centers as required by division (A)(1) of section 5104.05 of the Revised Code. Where there is a municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes day-care centers, all 60533  
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inspections required under division (A)(1) of section 5104.05 of 60540  
the Revised Code shall be made by that department according to the 60541  
standards established by the board of building standards. 60542  
Inspections in areas of the state where there is no municipal, 60543  
township, or county building department certified under section 60544  
3781.10 of the Revised Code to exercise enforcement authority with 60545  
respect to the category of building occupancy which includes 60546  
day-care centers shall be made by personnel of the department of 60547  
commerce. Inspections of centers shall be contingent upon payment 60548  
of a fee by the applicant to the department having jurisdiction to 60549  
inspect. 60550

(2) The department of commerce is responsible for the 60551  
inspections of type A family day-care homes as required by 60552  
division (B)(3) of section 5104.05 of the Revised Code. Where 60553  
there is a municipal, township, or county building department 60554  
certified under section 3781.10 of the Revised Code to exercise 60555  
enforcement authority with respect to the category of building 60556  
occupancy which includes type A homes, all inspections required 60557  
under division (B)(3) of section 5104.05 of the Revised Code shall 60558  
be made by that department according to the standards established 60559  
by the board of building standards. Inspections in areas of the 60560  
state where there is no municipal, township, or county building 60561  
department certified under section 3781.10 of the Revised Code to 60562  
exercise enforcement authority with respect to the category of 60563  
building occupancy which includes type A homes shall be made by 60564  
personnel of the department of commerce. Inspections of type A 60565  
homes shall be contingent upon payment of a fee by the applicant 60566  
to the department having jurisdiction to inspect. 60567

(B) The state fire marshal is responsible for the inspections 60568  
required by divisions (A)(2) and (B)(1) of section 5104.05 of the 60569  
Revised Code. In municipal corporations and in townships outside 60570  
municipal corporations where there is a fire prevention official, 60571

the inspections shall be made by the fire chief or the fire 60572  
prevention official under the supervision of and according to the 60573  
standards established by the state fire marshal. In townships 60574  
outside municipal corporations where there is no fire prevention 60575  
official, inspections shall be made by the employees of the state 60576  
fire marshal. 60577

(C) The state fire marshal shall enforce all statutes and 60578  
rules pertaining to fire safety and fire prevention in child 60579  
day-care centers and type A family day-care homes. In the event of 60580  
a dispute between the state fire marshal and any other responsible 60581  
officer under sections 5104.05 and 5104.051 of the Revised Code 60582  
with respect to the interpretation or application of a specific 60583  
fire safety statute or rule, the interpretation of the state fire 60584  
marshal shall prevail. 60585

(D) As used in this division, "licensor" has the same meaning 60586  
as in section 3717.01 of the Revised Code. 60587

The licensor for food service operations in the city or 60588  
general health district in which the center is located is 60589  
responsible for the inspections required under Chapter 3717. of 60590  
the Revised Code. 60591

(E) Any moneys collected by the department of commerce under 60592  
this section shall be paid into the state treasury to the credit 60593  
of the ~~labor~~ industrial compliance operating fund created in 60594  
section 121.084 of the Revised Code. 60595

**Sec. 5104.09.** (A)(1) Except as provided in rules adopted 60596  
pursuant to division (D) of this section, no individual who has 60597  
been convicted of or pleaded guilty to a violation described in 60598  
division (A)~~(9)~~(6) of section 109.572 of the Revised Code, a 60599  
violation of section 2905.11, 2909.02, 2909.03, 2909.04, 2909.05, 60600  
2917.01, 2917.02, 2917.03, 2917.31, 2921.03, 2921.34, or 2921.35 60601  
of the Revised Code or a violation of an existing or former law or 60602

ordinance of any municipal corporation, this state, any other 60603  
state, or the United States that is substantially equivalent to 60604  
any of those violations, or two violations of section 4511.19 of 60605  
the Revised Code during operation of the center or home shall be 60606  
certified as an in-home aide or be employed in any capacity in or 60607  
own or operate a child day-care center, type A family day-care 60608  
home, type B family day-care home, or certified type B family 60609  
day-care home. 60610

(2) Each employee of a child day-care center and type A home 60611  
and every person eighteen years of age or older residing in a type 60612  
A home shall sign a statement on forms prescribed by the director 60613  
of job and family services attesting to the fact that the employee 60614  
or resident person has not been convicted of or pleaded guilty to 60615  
any offense set forth in division (A)(1) of this section and that 60616  
no child has been removed from the employee's or resident person's 60617  
home pursuant to section 2151.353 of the Revised Code. Each 60618  
licensee of a type A home shall sign a statement on a form 60619  
prescribed by the director attesting to the fact that no person 60620  
who resides at the type A home and who is under the age of 60621  
eighteen has been adjudicated a delinquent child for committing a 60622  
violation of any section listed in division (A)(1) of this 60623  
section. The statements shall be kept on file at the center or 60624  
type A home. 60625

(3) Each in-home aide and every person eighteen years of age 60626  
or older residing in a certified type B home shall sign a 60627  
statement on forms prescribed by the director of job and family 60628  
services attesting that the aide or resident person has not been 60629  
convicted of or pleaded guilty to any offense set forth in 60630  
division (A)(1) of this section and that no child has been removed 60631  
from the aide's or resident person's home pursuant to section 60632  
2151.353 of the Revised Code. Each authorized provider shall sign 60633  
a statement on forms prescribed by the director attesting that the 60634

provider has not been convicted of or pleaded guilty to any 60635  
offense set forth in division (A)(1) of this section and that no 60636  
child has been removed from the provider's home pursuant to 60637  
section 2151.353 of the Revised Code. Each authorized provider 60638  
shall sign a statement on a form prescribed by the director 60639  
attesting to the fact that no person who resides at the certified 60640  
type B home and who is under the age of eighteen has been 60641  
adjudicated a delinquent child for committing a violation of any 60642  
section listed in division (A)(1) of this section. The statements 60643  
shall be kept on file at the county department of job and family 60644  
services. 60645

(4) Each administrator and licensee of a center or type A 60646  
home shall sign a statement on a form prescribed by the director 60647  
of job and family services attesting that the administrator or 60648  
licensee has not been convicted of or pleaded guilty to any 60649  
offense set forth in division (A)(1) of this section and that no 60650  
child has been removed from the administrator's or licensee's home 60651  
pursuant to section 2151.353 of the Revised Code. The statement 60652  
shall be kept on file at the center or type A home. 60653

(B) No in-home aide, no administrator, licensee, authorized 60654  
provider, or employee of a center, type A home, or certified type 60655  
B home, and no person eighteen years of age or older residing in a 60656  
type A home or certified type B home shall withhold information 60657  
from, or falsify information on, any statement required pursuant 60658  
to division (A)(2), (3), or (4) of this section. 60659

(C) No administrator, licensee, or child-care staff member 60660  
shall discriminate in the enrollment of children in a child 60661  
day-care center upon the basis of race, color, religion, sex, or 60662  
national origin. 60663

(D) The director of job and family services shall adopt rules 60664  
pursuant to Chapter 119. of the Revised Code to implement this 60665  
section, including rules specifying exceptions to the prohibition 60666

in division (A) of this section for persons who have been 60667  
convicted of an offense listed in that division but meet 60668  
rehabilitation standards set by the ~~department~~ director. 60669

**Sec. 5104.37.** (A) As used in this section, "eligible 60670  
provider" means an individual or entity eligible to provide 60671  
publicly funded child care pursuant to section 5104.31 of the 60672  
Revised Code. 60673

(B) The department of job and family services may withhold 60674  
any money due, under this chapter and recover through any 60675  
appropriate method any money erroneously paid, under this chapter 60676  
if evidence exists of less than full compliance with this chapter 60677  
and any rules adopted under it. 60678

(C) Notwithstanding any other provision of this chapter to 60679  
the contrary, the department shall take action against an eligible 60680  
provider as described in this section. 60681

(D) The department may suspend a contract entered into with 60682  
an eligible provider under section 5104.32 of the Revised Code 60683  
when the department initiates an investigation concerning the 60684  
eligible provider for either of the following reasons: 60685

(1) The department has evidence that the eligible provider 60686  
received an improper child care payment as a result of the 60687  
provider's intentional act. 60688

(2) The department receives notice and a copy of an 60689  
indictment, information, or complaint charging the eligible 60690  
provider or the owner or operator of the provider with committing 60691  
any of the following: 60692

(a) An act that is a felony or misdemeanor relating to 60693  
providing or billing for publicly funded child care or providing 60694  
management or administrative services relating to providing 60695  
publicly funded child care; 60696

(b) An act that would constitute an offense described in section 5104.09 of the Revised Code. 60697  
60698

(E)(1) Except as provided in division (E)(2) of this section, the suspension of a contract under division (D) of this section shall 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. 60699  
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60701  
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(2) If the department initiates the termination of a contract that has been suspended pursuant to division (D) of this section, the suspension shall continue until the termination process is completed. 60704  
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60707

(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. 60708  
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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: 60714  
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(1) A description of the investigation or indictment, information, or complaint, which need not disclose specific information concerning any ongoing administrative or criminal investigation; 60718  
60719  
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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; 60722  
60723  
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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, 60725  
60726  
60727

conviction, or a plea of guilty, and that if the department 60728  
initiates the termination of the contract, the suspension will 60729  
continue until the termination process is completed. 60730

(H) An eligible provider may file an appeal with the 60731  
department regarding any action the department takes pursuant to 60732  
division (D) of this section. The appeal must be received by the 60733  
department not later than fifteen days after the date the provider 60734  
receives the notification described in division (G) of this 60735  
section. The department shall review the evidence and issue a 60736  
decision not later than thirty days after receiving the appeal. 60737  
The department shall not suspend a contract pursuant to division 60738  
(D) of this section until the time for filing the appeal has 60739  
passed or, if the provider files a timely appeal, the department 60740  
has issued a decision on the appeal. 60741

**Sec. 5107.05.** The director of job and family services shall 60742  
adopt rules to implement this chapter. The rules shall be 60743  
consistent with Title IV-A, Title IV-D, federal regulations, state 60744  
law, the Title IV-A state plan submitted to the United States 60745  
secretary of health and human services under section 5101.80 of 60746  
the Revised Code, amendments to the plan, and waivers granted by 60747  
the United States secretary. Rules governing eligibility, program 60748  
participation, and other applicant and participant requirements 60749  
shall be adopted in accordance with Chapter 119. of the Revised 60750  
Code. Rules governing financial and other administrative 60751  
requirements applicable to the department of job and family 60752  
services and county departments of job and family services shall 60753  
be adopted in accordance with section 111.15 of the Revised Code. 60754

(A) The rules shall specify, establish, or govern all of the 60755  
following: 60756

(1) A payment standard for Ohio works first based on federal 60757  
and state appropriations that is increased in accordance with 60758

section 5107.04 of the Revised Code; 60759

(2) For the purpose of section 5107.04 of the Revised Code, 60760  
the method of determining the amount of cash assistance an 60761  
assistance group receives under Ohio works first; 60762

(3) Requirements for initial and continued eligibility for 60763  
Ohio works first, including requirements regarding income, 60764  
citizenship, age, residence, and assistance group composition; 60765

(4) For the purpose of section 5107.12 of the Revised Code, 60766  
application and verification procedures, including the minimum 60767  
information an application must contain; 60768

(5) The extent to which a participant of Ohio works first 60769  
must notify, pursuant to section 5107.12 of the Revised Code, a 60770  
county department of job and family services of additional income 60771  
not previously reported to the county department; 60772

(6) For the purpose of section 5107.16 of the Revised Code, 60773  
~~all~~ both of the following: 60774

(a) Standards for the determination of good cause for failure 60775  
or refusal to comply in full with a provision of a 60776  
self-sufficiency contract; 60777

(b) The compliance ~~form~~ activities a member of an assistance 60778  
group ~~may complete to indicate willingness to come into full~~ 60779  
~~compliance~~ must complete for the member to be considered to have 60780  
ceased to fail or refuse to comply in full with a provision of a 60781  
self-sufficiency contract; 60782

~~(c) The manner by which the compliance form is to be~~ 60783  
~~completed and provided to a county department of job and family~~ 60784  
~~services.~~ 60785

(7) The department of job and family services providing 60786  
written notice of a sanction under section 5107.161 of the Revised 60787  
Code; 60788

(8) For the purpose of division ~~(A)(2)~~(B) of section 5107.17 60789  
of the Revised Code, the ~~period of time by which a county~~ 60790  
~~department of job and family services is to receive a compliance~~ 60791  
~~form established in rules adopted under division (A)(6)(b) of this~~ 60792  
~~section~~ circumstances under which the adult member of an 60793  
assistance group or an assistance group's minor head of household 60794  
whose failure or refusal, without good cause, to comply in full 60795  
with a provision of a self-sufficiency contract causes a sanction 60796  
under section 5107.16 of the Revised Code must enter into a new, 60797  
or amend an existing, self-sufficiency contract before the 60798  
assistance group may resume participation in Ohio works first 60799  
following the sanction; 60800

(9) Requirements for the collection and distribution of 60801  
support payments owed participants of Ohio works first pursuant to 60802  
section 5107.20 of the Revised Code; 60803

(10) For the purpose of section 5107.22 of the Revised Code, 60804  
what constitutes cooperating in establishing a minor child's 60805  
paternity or establishing, modifying, or enforcing a child support 60806  
order and good cause for failure or refusal to cooperate; 60807

(11) The requirements governing the LEAP program, including 60808  
the definitions of "equivalent of a high school diploma" and "good 60809  
cause," and the incentives provided under the LEAP program; 60810

(12) If the director implements section 5107.301 of the 60811  
Revised Code, the requirements governing the award provided under 60812  
that section, including the form that the award is to take and 60813  
requirements an individual must satisfy to receive the award; 60814

(13) Circumstances under which a county department of job and 60815  
family services may exempt a minor head of household or adult from 60816  
participating in a work activity or developmental activity for all 60817  
or some of the weekly hours otherwise required by section 5107.43 60818  
of the Revised Code. 60819

(14) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code;

(15) The implementation of sections 5107.71 to 5107.717 of the Revised Code by county departments of job and family services;

(16) A domestic violence screening process to be used for the purpose of division (A) of section 5107.71 of the Revised Code;

(17) The minimum frequency with which county departments of job and family services must redetermine a member of an assistance group's need for a waiver issued under section 5107.714 of the Revised Code.

(B) The rules adopted under division (A)(3) of this section regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code.

The rules adopted under division (A)(10) of this section shall be consistent with 42 U.S.C. 654(29).

The rules adopted under division (A)(13) of this section shall specify that the circumstances include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation.

(C) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment ~~that is below an amount the department specifies~~ under circumstances the rules specify.

**Sec. 5107.16.** (A) If a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract entered into under section 5107.14 of

the Revised Code, a county department of job and family services 60850  
shall sanction the assistance group as follows: 60851

(1) For a first failure or refusal, the county department 60852  
shall deny or terminate the assistance group's eligibility to 60853  
participate in Ohio works first for one payment month or until the 60854  
failure or refusal ceases, whichever is longer; 60855

(2) For a second failure or refusal, the county department 60856  
shall deny or terminate the assistance group's eligibility to 60857  
participate in Ohio works first for three payment months or until 60858  
the failure or refusal ceases, whichever is longer; 60859

(3) For a third or subsequent failure or refusal, the county 60860  
department shall deny or terminate the assistance group's 60861  
eligibility to participate in Ohio works first for six payment 60862  
months or until the failure or refusal ceases, whichever is 60863  
longer. 60864

(B) The director of job and family services shall establish 60865  
standards for the determination of good cause for failure or 60866  
refusal to comply in full with a provision of a self-sufficiency 60867  
contract in rules adopted under section 5107.05 of the Revised 60868  
Code. 60869

~~(C) The director of job and family services shall provide a 60870  
compliance form established in rules adopted under section 5107.05 60871  
of the Revised Code to an An assistance group member who fails or 60872  
refuses, without good cause, to comply in full with a provision of 60873  
a self-sufficiency contract. ~~The member's failure or refusal to 60874  
comply in full with the provision shall be deemed to have ceased 60875  
on the date a county department of job and family services 60876  
receives the compliance form from the member if the compliance 60877  
form is completed and provided to the county department in the 60878  
manner must complete all compliance activities specified in rules 60879  
adopted under section 5107.05 of the Revised Code in order for the 60880~~~~

failure or refusal to be considered to have ceased. 60881

(D) After sanctioning an assistance group under division (A) 60882  
of this section, a county department of job and family services 60883  
shall continue to work with the assistance group. 60884

(E) An adult eligible for medicaid pursuant to division 60885  
~~(A)(C)~~(1)(a) of section 5111.01 of the Revised Code who is 60886  
sanctioned under division (A)(3) of this section for a failure or 60887  
refusal, without good cause, to comply in full with a provision of 60888  
a self-sufficiency contract related to work responsibilities under 60889  
sections 5107.40 to 5107.69 of the Revised Code loses eligibility 60890  
for medicaid unless the adult is otherwise eligible for medicaid 60891  
pursuant to another division of section 5111.01 of the Revised 60892  
Code. 60893

An assistance group that would be participating in Ohio works 60894  
first if not for a sanction under this section shall continue to 60895  
be eligible for all of the following: 60896

(1) Publicly funded child care in accordance with division 60897  
(A)(3) of section 5104.30 of the Revised Code; 60898

(2) Support services in accordance with section 5107.66 of 60899  
the Revised Code; 60900

(3) To the extent permitted by the "Fair Labor Standards Act 60901  
of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate 60902  
in work activities, developmental activities, and alternative work 60903  
activities in accordance with sections 5107.40 to 5107.69 of the 60904  
Revised Code. 60905

**Sec. 5107.17.** ~~An~~ Both of the following must occur before an 60906  
assistance group ~~that resumes~~ may resume participation in Ohio 60907  
works first following a sanction under section 5107.16 of the 60908  
Revised Code ~~is not required to do either of the following:~~ 60909

(A) ~~Reapply~~ The assistance group must reapply under section 60910

5107.12 of the Revised Code, ~~unless either~~ if any of the following 60911  
~~applies~~ apply: 60912

(1) It is the assistance group's regularly scheduled time for 60913  
an eligibility redetermination; 60914

(2) ~~The county department of job and family services does not~~ 60915  
~~receive the completed compliance form established in rules adopted~~ 60916  
~~under section 5107.05 of the Revised Code within the period of~~ 60917  
~~time specified in rules adopted under that section~~ If the sanction 60918  
was imposed under division (A)(1) of section 5107.16 of the 60919  
Revised Code, the failure or refusal on which the sanction was 60920  
based is not considered to have ceased until after one payment 60921  
month immediately following the date the sanction began; 60922

(3) If the sanction was imposed under division (A)(2) of 60923  
section 5107.16 of the Revised Code, the failure or refusal on 60924  
which the sanction was based is not considered to have ceased 60925  
until after three payment months immediately following the date 60926  
the sanction began; 60927

(4) If the sanction was imposed under division (A)(3) of 60928  
section 5107.16 of the Revised Code, the failure or refusal on 60929  
which the sanction was based is not considered to have ceased 60930  
until after six payment months immediately following the date the 60931  
sanction began. 60932

(B) ~~Enter~~ The adult member of the assistance group or the 60933  
assistance group's minor head of household whose failure or 60934  
refusal, without good cause, to comply in full with a provision of 60935  
a self-sufficiency contract caused the sanction must enter into a 60936  
new, or amend an existing, self-sufficiency contract under section 60937  
5107.14 of the Revised Code, ~~unless the county department of job~~ 60938  
~~and family services determines it is time for a new appraisal~~ 60939  
~~under section 5107.41 of the Revised Code or the assistance~~ 60940  
~~group's circumstances have changed in a manner necessitating an~~ 60941

~~amendment to the self sufficiency contract as determined using~~ 60942  
~~procedures included in the contract under division (B)(9) of if~~ 60943  
~~required to do so by rules adopted under~~ section 5107.14 ~~5107.05~~ 60944  
of the Revised Code. 60945

**Sec. 5111.01.** (A) As used in this chapter, ~~"medical:~~ 60946

"Children's health insurance program" means the children's 60947  
health insurance program part I, children's health insurance 60948  
program part II, and children's health insurance program part III 60949  
authorized by sections 5101.50 to 5101.529 of the Revised Code. 60950

"Medical assistance program" or "medicaid" means the program 60951  
that is authorized by this chapter and provided by the ~~department~~ 60952  
office of job and family services medical assistance under this 60953  
chapter, Title XIX of the "Social Security Act," 79 Stat. 286 60954  
(1965), 42 U.S.C.A. 1396, et seq., as amended, and the waivers of 60955  
Title XIX requirements granted to the ~~department office~~ by the 60956  
centers for medicare and medicaid services of the United States 60957  
department of health and human services. 60958

~~The department of job and family services~~ (B) There is hereby 60959  
established the office of medical assistance as a work unit within 60960  
the department of job and family services. The chief of the office 60961  
shall hold the title of medical assistance director. 60962  
Notwithstanding section 5101.06 of the Revised Code, the governor 60963  
shall appoint the medical assistance director and the medical 60964  
assistance director shall serve at the governor's pleasure. The 60965  
medical assistance director is not an assistant director of the 60966  
department of job and family services for purposes of section 60967  
121.05 or 5101.03 of the Revised Code or any other purpose. 60968

Subject to appropriations for the medicaid program and 60969  
children's health insurance program, the department of job and 60970  
family services shall provide staff and support services as 60971  
necessary for the operation of the office of medical assistance. 60972

If a statute, rule, contract, or other legal authority 60973  
requires the director of job and family services or department of 60974  
job and family services to take an action regarding the medicaid 60975  
program or children's health insurance program, the medical 60976  
assistance director or office of medical assistance shall take the 60977  
action in place of the director of job and family services or 60978  
department of job and family services. If a statute, rule, 60979  
contract, or other legal authority permits the director of job and 60980  
family services or department of job and family services to take 60981  
an action regarding the medicaid program or children's health 60982  
insurance program, the medical assistance director or office of 60983  
medical assistance shall take the action in place of the director 60984  
of job and family services or department of job and family 60985  
services if the action is to be taken. 60986

The office of medical assistance shall act as the single 60987  
state agency to supervise the administration of the medicaid 60988  
program. As the single state agency, the ~~department~~ office shall 60989  
comply with 42 C.F.R. 431.10(e). The ~~department's~~ office's rules 60990  
governing medicaid are binding on other agencies that administer 60991  
components of the medicaid program. No agency may establish, by 60992  
rule or otherwise, a policy governing medicaid that is 60993  
inconsistent with a medicaid policy established, in rule or 60994  
otherwise, by the medical assistance director of ~~job and family~~ 60995  
~~services~~. 60996

~~(A)(C)~~ The ~~department~~ office of ~~job and family services~~ 60997  
medical assistance may provide medical assistance under the 60998  
medicaid program as long as federal funds are provided for such 60999  
assistance, to the following: 61000

(1) Families with children that meet either of the following 61001  
conditions: 61002

(a) The family meets the income, resource, and family 61003  
composition requirements in effect on July 16, 1996, for the 61004

former aid to dependent children program as those requirements 61005  
were established by Chapter 5107. of the Revised Code, federal 61006  
waivers granted pursuant to requests made under former section 61007  
5101.09 of the Revised Code, and rules adopted by the department 61008  
or any changes the department makes to those requirements in 61009  
accordance with paragraph (a)(2) of section 114 of the "Personal 61010  
Responsibility and Work Opportunity Reconciliation Act of 1996," 61011  
110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of 61012  
implementing section 5111.0120 of the Revised Code. An adult loses 61013  
eligibility for medicaid under division ~~(A)~~(C)(1)(a) of this 61014  
section pursuant to division (E) of section 5107.16 of the Revised 61015  
Code. 61016

(b) The family does not meet the requirements specified in 61017  
division ~~(A)~~(C)(1)(a) of this section but is eligible for medicaid 61018  
pursuant to section 5101.18 of the Revised Code. 61019

(2) Aged, blind, and disabled persons who meet the following 61020  
conditions: 61021

(a) Receive federal aid under Title XVI of the "Social 61022  
Security Act," or are eligible for but are not receiving such aid, 61023  
provided that the income from all other sources for individuals 61024  
with independent living arrangements shall not exceed one hundred 61025  
seventy-five dollars per month. The income standards hereby 61026  
established shall be adjusted annually at the rate that is used by 61027  
the United States department of health and human services to 61028  
adjust the amounts payable under Title XVI. 61029

(b) Do not receive aid under Title XVI, but meet any of the 61030  
following criteria: 61031

(i) Would be eligible to receive such aid, except that their 61032  
income, other than that excluded from consideration as income 61033  
under Title XVI, exceeds the maximum under division ~~(A)~~(C)(2)(a) 61034  
of this section, and incurred expenses for medical care, as 61035

determined under federal regulations applicable to section 209(b) 61036  
of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 61037  
U.S.C.A. 1396a(f), as amended, equal or exceed the amount by which 61038  
their income exceeds the maximum under division ~~(A)~~(C)(2)(a) of 61039  
this section; 61040

(ii) Received aid for the aged, aid to the blind, or aid for 61041  
the permanently and totally disabled prior to January 1, 1974, and 61042  
continue to meet all the same eligibility requirements; 61043

(iii) Are eligible for medicaid pursuant to section 5101.18 61044  
of the Revised Code. 61045

(3) Persons to whom federal law requires, as a condition of 61046  
state participation in the medicaid program, that medicaid be 61047  
provided; 61048

(4) Persons under age twenty-one who meet the income 61049  
requirements for the Ohio works first program established under 61050  
Chapter 5107. of the Revised Code but do not meet other 61051  
eligibility requirements for the program. The medical assistance 61052  
director shall adopt rules in accordance with Chapter 119. of the 61053  
Revised Code specifying which Ohio works first requirements shall 61054  
be waived for the purpose of providing medicaid eligibility under 61055  
division ~~(A)~~(C)(4) of this section. 61056

~~(B)~~(D) If sufficient funds are appropriated for the medicaid 61057  
program, the ~~department~~ office of medical assistance may provide 61058  
medical assistance under the medicaid program to persons in groups 61059  
designated by federal law as groups to which a state, at its 61060  
option, may provide medical assistance under the medicaid program. 61061

~~(C)~~(E) The ~~department~~ office of medical assistance may expand 61062  
eligibility for the medicaid program to include individuals under 61063  
age nineteen with family incomes at or below one hundred fifty per 61064  
cent of the federal poverty guidelines, except that the 61065  
eligibility expansion shall not occur unless the ~~department~~ office 61066

receives the approval of the federal government. The ~~department~~ 61067  
office may implement the eligibility expansion authorized under 61068  
this division on any date selected by the ~~department~~ office, but 61069  
not sooner than January 1, 1998. 61070

~~(D)~~(F) In addition to any other authority or requirement to 61071  
adopt rules under this chapter, the medical assistance director 61072  
may adopt rules in accordance with section 111.15 of the Revised 61073  
Code as the director considers necessary to establish standards, 61074  
procedures, and other requirements regarding the provision of 61075  
medical assistance under the medicaid program. The rules may 61076  
establish requirements to be followed in applying for medicaid, 61077  
making determinations of eligibility for medicaid, and verifying 61078  
eligibility for medicaid. The rules may include special conditions 61079  
as the ~~department~~ office determines appropriate for making 61080  
applications, determining eligibility, and verifying eligibility 61081  
for any medical assistance that the ~~department~~ office may provide 61082  
under the medicaid program pursuant to division ~~(C)~~(E) of this 61083  
section and section 5111.014 or 5111.0120 of the Revised Code. 61084

**Sec. 5111.013.** (A) The provision of medical assistance to 61085  
pregnant women and young children who are eligible for medical 61086  
assistance under division ~~(A)~~(C)(3) of section 5111.01 of the 61087  
Revised Code, but who are not otherwise eligible for medical 61088  
assistance under that section, shall be known as the healthy start 61089  
program. 61090

(B) The department of job and family services shall do all of 61091  
the following with regard to the application procedures for the 61092  
healthy start program: 61093

(1) Establish a short application form for the program that 61094  
requires the applicant to provide no more information than is 61095  
necessary for making determinations of eligibility for the healthy 61096  
start program, except that the form may require applicants to 61097

provide their social security numbers. The form shall include a 61098  
statement, which must be signed by the applicant, indicating that 61099  
she does not choose at the time of making application for the 61100  
program to apply for assistance provided under any other program 61101  
administered by the department and that she understands that she 61102  
is permitted at any other time to apply at the county department 61103  
of job and family services of the county in which she resides for 61104  
any other assistance administered by the department. 61105

(2) To the extent permitted by federal law, do one or both of 61106  
the following: 61107

(a) Distribute the application form for the program to each 61108  
public or private entity that serves as a women, infants, and 61109  
children clinic or as a child and family health clinic and to each 61110  
administrative body for such clinics and train employees of each 61111  
such agency or entity to provide applicants assistance in 61112  
completing the form; 61113

(b) In cooperation with the department of health, develop 61114  
arrangements under which employees of county departments of job 61115  
and family services are stationed at public or private agencies or 61116  
entities selected by the department of job and family services 61117  
that serve as women, infants, and children clinics; child and 61118  
family health clinics; or administrative bodies for such clinics 61119  
for the purpose both of assisting applicants for the program in 61120  
completing the application form and of making determinations at 61121  
that location of eligibility for the program. 61122

(3) Establish performance standards by which a county 61123  
department of job and family services' level of enrollment of 61124  
persons potentially eligible for the program can be measured, and 61125  
establish acceptable levels of enrollment for each county 61126  
department. 61127

(4) Direct any county department of job and family services 61128

whose rate of enrollment of potentially eligible enrollees in the 61129  
program is below acceptable levels established under division 61130  
(B)(3) of this section to implement corrective action. Corrective 61131  
action may include but is not limited to any one or more of the 61132  
following to the extent permitted by federal law: 61133

(a) Establishing formal referral and outreach methods with 61134  
local health departments and local entities receiving funding 61135  
through the bureau of maternal and child health; 61136

(b) Designating a specialized intake unit within the county 61137  
department for healthy start applicants; 61138

(c) Establishing abbreviated timeliness requirements to 61139  
shorten the time between receipt of an application and the 61140  
scheduling of an initial application interview; 61141

(d) Establishing a system for telephone scheduling of intake 61142  
interviews for applicants; 61143

(e) Establishing procedures to minimize the time an applicant 61144  
must spend in completing the application and eligibility 61145  
determination process, including permitting applicants to complete 61146  
the process at times other than the regular business hours of the 61147  
county department and at locations other than the offices of the 61148  
county department. 61149

(C) To the extent permitted by federal law, local funds, 61150  
whether from public or private sources, expended by a county 61151  
department for administration of the healthy start program shall 61152  
be considered to have been expended by the state for the purpose 61153  
of determining the extent to which the state has complied with any 61154  
federal requirement that the state provide funds to match federal 61155  
funds for medical assistance, except that this division shall not 61156  
affect the amount of funds the county is entitled to receive under 61157  
section 5101.16, 5101.161, or 5111.012 of the Revised Code. 61158

(D) A county department of job and family services that 61159

maintains offices at more than one location shall accept 61160  
applications for the healthy start program at all of those 61161  
locations. 61162

(E) The director of job and family services shall adopt rules 61163  
in accordance with section 111.15 of the Revised Code as necessary 61164  
to implement this section. 61165

**Sec. 5111.014.** (A) The director of job and family services 61166  
shall submit to the United States secretary of health and human 61167  
services an amendment to the state medicaid plan to make an 61168  
individual who meets all of the following requirements eligible 61169  
for medicaid: 61170

(1) The individual is pregnant; 61171

(2) The individual's family income does not exceed two 61172  
hundred per cent of the federal poverty guidelines; 61173

(3) The individual satisfies all relevant requirements 61174  
established by rules adopted under division ~~(D)~~(F) of section 61175  
5111.01 of the Revised Code. 61176

(B) If approved by the United States secretary of health and 61177  
human services, the director of job and family services shall 61178  
implement the medicaid plan amendment submitted under division (A) 61179  
of this section as soon as possible after receipt of notice of the 61180  
approval, but not sooner than January 1, 2008. 61181

**Sec. 5111.0115.** (A) The department of job and family services 61182  
may provide medical assistance under the medicaid program, as long 61183  
as federal funds are provided for such assistance, to each former 61184  
participant of the Ohio works first program established under 61185  
Chapter 5107. of the Revised Code who meets all of the following 61186  
requirements: 61187

(1) Is ineligible to participate in Ohio works first solely 61188

as a result of increased income due to employment; 61189

(2) Is not covered by, and does not have access to, medical 61190  
insurance coverage through the employer with benefits comparable 61191  
to those provided under this section, as determined in accordance 61192  
with rules adopted by the director of job and family services 61193  
under division (B) of this section; 61194

(3) Meets any other requirement established by rule adopted 61195  
under division (B) of this section. 61196

(B) The director of job and family services shall adopt such 61197  
rules under Chapter 119. of the Revised Code as are necessary to 61198  
implement and administer the medical assistance program under this 61199  
section. 61200

(C) A person seeking to participate in a program of medical 61201  
assistance under this section shall apply to the county department 61202  
of job and family services in the county in which the applicant 61203  
resides. The application shall be made on a form prescribed by the 61204  
department of job and family services and furnished by the county 61205  
department. 61206

(D) If the county department of job and family services 61207  
determines that a person is eligible to receive medical assistance 61208  
under this section, the department shall provide assistance, to 61209  
the same extent and in the same manner as medical assistance is 61210  
provided to a person eligible for medical assistance pursuant to 61211  
division ~~(A)~~(C)(1)(a) of section 5111.01 of the Revised Code, for 61212  
no longer than twelve months, beginning the month after the date 61213  
the participant's eligibility for Ohio works first is terminated. 61214

**Sec. 5111.0120.** The director of job and family services shall 61215  
submit to the United States secretary of health and human services 61216  
an amendment to the state medicaid plan to make an individual 61217  
eligible for medicaid who meets all of the following requirements: 61218

|  |   |
|--|---|
|  | 61219                                     |
| (A) The individual is the parent of a child under nineteen years of age and resides with the child;  | 61220<br>61221                            |
| (B) The individual's family income does not exceed ninety per cent of the federal poverty guidelines;  | 61222<br>61223                            |
| (C) The individual is not otherwise eligible for medicaid;   | 61224                                     |
| (D) The individual satisfies all relevant requirements established by rules adopted under division <del>(D)</del> (F) of section 5111.01 of the Revised Code.  | 61225<br>61226<br>61227                   |
| <b>Sec. 5111.031.</b> (A) As used in this section:   | 61228                                     |
| (1) "Independent provider" has the same meaning as in section 5111.034 of the Revised Code.  | 61229<br>61230                            |
| (2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.  | 61231<br>61232<br>61233                   |
| (3) "Noninstitutional medicaid provider" means any person or entity with a medicaid provider agreement other than a hospital, nursing facility, or intermediate care facility for the mentally retarded.   | 61234<br>61235<br>61236<br>61237          |
| (4) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.  | 61238<br>61239                            |
| (B) Notwithstanding any provision of this chapter to the contrary, the department of job and family services shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee. | 61240<br>61241<br>61242<br>61243<br>61244 |
| (C) Except as provided in division (D) of this section and in rules adopted by the department under division (H) of this section, on receiving notice and a copy of an indictment that is  | 61245<br>61246<br>61247                   |

issued on or after September 29, 2007, and charges a 61248  
noninstitutional medicaid provider or its owner, officer, 61249  
authorized agent, associate, manager, or employee with committing 61250  
an offense specified in division (E) of this section, the 61251  
department shall suspend the provider agreement held by the 61252  
noninstitutional medicaid provider. Subject to division (D) of 61253  
this section, the department shall also terminate medicaid 61254  
reimbursement to the provider for services rendered. 61255

The suspension shall continue in effect until the proceedings 61256  
in the criminal case are completed through dismissal of the 61257  
indictment or through conviction, entry of a guilty plea, or 61258  
finding of not guilty. If the department commences a process to 61259  
terminate the suspended provider agreement, the suspension shall 61260  
also continue in effect until the termination process is 61261  
concluded. 61262

Pursuant to section 5111.06 of the Revised Code, the 61263  
department is not required to take action under this division by 61264  
issuing an order pursuant to an adjudication conducted in 61265  
accordance with Chapter 119. of the Revised Code. 61266

When subject to a suspension under this division, a provider, 61267  
owner, officer, authorized agent, associate, manager, or employee 61268  
shall not own or provide services to any other medicaid provider 61269  
or risk contractor or arrange for, render, or order services for 61270  
medicaid recipients during the period of suspension. During the 61271  
period of suspension, the provider, owner, officer, authorized 61272  
agent, associate, manager, or employee shall not receive 61273  
reimbursement in the form of direct payments from the department 61274  
or indirect payments of medicaid funds in the form of salary, 61275  
shared fees, contracts, kickbacks, or rebates from or through any 61276  
participating provider or risk contractor. 61277

(D)(1) The department shall not suspend a provider agreement 61278  
or terminate medicaid reimbursement under division (C) of this 61279

section if the provider or owner can demonstrate through the 61280  
submission of written evidence that the provider or owner did not 61281  
directly or indirectly sanction the action of its authorized 61282  
agent, associate, manager, or employee that resulted in the 61283  
indictment. 61284

(2) The termination of medicaid reimbursement applies only to 61285  
payments for medicaid services rendered subsequent to the date on 61286  
which the notice required under division (F) of this section is 61287  
sent. Claims for reimbursement for medicaid services rendered by 61288  
the provider prior to the issuance of the notice may be subject to 61289  
prepayment review procedures whereby the department reviews claims 61290  
to determine whether they are supported by sufficient 61291  
documentation, are in compliance with state and federal statutes 61292  
and rules, and are otherwise complete. 61293

(E)(1) In the case of a noninstitutional medicaid provider 61294  
that is not an independent provider, the suspension of a provider 61295  
agreement under division (C) of this section applies when an 61296  
indictment charges a person with committing an act that would be a 61297  
felony or misdemeanor under the laws of this state and the act 61298  
relates to or results from either of the following: 61299

(a) Furnishing or billing for medical care, services, or 61300  
supplies under the medicaid program; 61301

(b) Participating in the performance of management or 61302  
administrative services relating to furnishing medical care, 61303  
services, or supplies under the medicaid program. 61304

(2) In the case of a noninstitutional medicaid provider that 61305  
is an independent provider, the suspension of a provider agreement 61306  
under division (C) of this section applies when an indictment 61307  
charges a person with committing an act that would constitute ~~one~~ 61308  
~~of the offenses specified in division (D) of a disqualifying~~ 61309  
offense as defined in section 5111.034 5111.032 of the Revised 61310

Code. 61311

(F) Not later than five days after suspending a provider 61312  
agreement under division (C) of this section, the department shall 61313  
send notice of the suspension to the affected provider or owner. 61314  
In providing the notice, the department shall do all of the 61315  
following: 61316

(1) Describe the indictment that was the cause of the 61317  
suspension, without necessarily disclosing specific information 61318  
concerning any ongoing civil or criminal investigation; 61319

(2) State that the suspension will continue in effect until 61320  
the proceedings in the criminal case are completed through 61321  
dismissal of the indictment or through conviction, entry of a 61322  
guilty plea, or finding of not guilty and, if the department 61323  
commences a process to terminate the suspended provider agreement, 61324  
until the termination process is concluded; 61325

(3) Inform the provider or owner of the opportunity to submit 61326  
to the department, not later than thirty days after receiving the 61327  
notice, a request for a reconsideration pursuant to division (G) 61328  
of this section. 61329

(G)(1) Pursuant to the procedure specified in division (G)(2) 61330  
of this section, a noninstitutional medicaid provider or owner 61331  
subject to a suspension under this section may request a 61332  
reconsideration. The request shall be made not later than thirty 61333  
days after receipt of the notice provided under division (F) of 61334  
this section. The reconsideration is not subject to an 61335  
adjudication hearing pursuant to Chapter 119. of the Revised Code. 61336

(2) In requesting a reconsideration, the provider or owner 61337  
shall submit written information and documents to the department. 61338  
The information and documents may pertain to any of the following 61339  
issues: 61340

(a) Whether the determination to suspend the provider 61341

agreement was based on a mistake of fact, other than the validity of the indictment; 61342  
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(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section; 61344  
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(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment. 61346  
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(3) The department shall review the information and documents submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration. 61350  
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(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section. 61358  
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**Sec. 5111.032.** (A) As used in this section: 61362

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 61363  
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(2) ~~"Department" includes a designee of the department of job and family services.~~ 61365  
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~~(3) "Disqualifying offense" means any of the following:~~ 61367

(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, 61368  
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|---|-------|
| <u>2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22,</u>     | 61372 |
| <u>2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322,</u>   | 61373 |
| <u>2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23,</u>    | 61374 |
| <u>2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02,</u>     | 61375 |
| <u>2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32,</u>     | 61376 |
| <u>2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45,</u>    | 61377 |
| <u>2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02,</u>     | 61378 |
| <u>2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23,</u>   | 61379 |
| <u>2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24,</u>     | 61380 |
| <u>2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122,</u>   | 61381 |
| <u>2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42,</u>  | 61382 |
| <u>2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09,</u>    | 61383 |
| <u>2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u>     | 61384 |
| <u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u>         | 61385 |
| <u>(b) Felonious sexual penetration in violation of former</u>            | 61386 |
| <u>section 2907.12 of the Revised Code;</u>                               | 61387 |
| <u>(c) A violation of section 2905.04 of the Revised Code as it</u>       | 61388 |
| <u>existed prior to July 1, 1996;</u>                                     | 61389 |
| <u>(d) A violation of section 2923.01, 2923.02, or 2923.03 of</u>         | 61390 |
| <u>the Revised Code when the underlying offense that is the object of</u> | 61391 |
| <u>the conspiracy, attempt, or complicity is one of the offenses</u>      | 61392 |
| <u>listed in division (A)(2)(a) to (c) of this section;</u>               | 61393 |
| <u>(e) A violation of an existing or former municipal ordinance</u>       | 61394 |
| <u>or law of this state, any other state, or the United States that</u>   | 61395 |
| <u>is substantially equivalent to any of the offenses listed in</u>       | 61396 |
| <u>division (A)(2)(a) to (d) of this section.</u>                         | 61397 |
| <u>(3) "Owner" means a person who has an ownership interest in a</u>      | 61398 |
| <u>provider or applicant to be a provider in an amount designated by</u>  | 61399 |
| <u>the department of job and family services in rules adopted under</u>   | 61400 |
| <u>this section.</u>  | 61401 |
| <u>(4) "Person subject to the criminal records check</u>                  | 61402 |

requirement" means the following: 61403

(a) A provider or applicant to be a provider who is notified under division (E)(1) of this section that the provider or applicant is subject to a criminal records check; 61404  
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(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a provider or applicant to be a provider if, pursuant to division (E)(1)(a) of this section, the owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider or applicant under division (E)(1) of this section; 61407  
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(c) An employee or prospective employee of a provider or applicant to be a provider if both of the following apply: 61414  
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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. 61416  
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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. 61420  
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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. 61423  
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(6) "Responsible entity" means the following: 61427

(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; 61428  
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(b) With respect to a criminal records check required under 61432

this section for an owner or prospective owner, officer or 61433  
prospective officer, board member or prospective board member, or 61434  
employee or prospective employee of a provider or applicant to be 61435  
a provider, the provider or applicant. 61436

~~(B)(1) Except as provided in division (B)(2) of this section,~~ 61437  
This section does not apply to any individual who is subject 61438  
to a criminal records check under section 3712.09, 3721.121, 61439  
5111.034, 5123.081, or 5123.169 of the Revised Code or any 61440  
individual who is subject to a database review or criminal records 61441  
check under section 173.394, 3701.881, or 5111.033 of the Revised 61442  
Code. 61443

(C) The department of job and family services may require do 61444  
any of the following: 61445

(1) Require that any provider, or applicant to be a provider, 61446  
~~employee or prospective employee of a provider, owner or~~ 61447  
~~prospective owner of a provider, officer or prospective officer of~~ 61448  
~~a provider, or board member or prospective board member of a~~ 61449  
~~provider~~ submit to a criminal records check as a condition of 61450  
~~obtaining~~ having a medicaid provider agreement, continuing to hold 61451  
~~a provider agreement, being employed by a provider, having an~~ 61452  
~~ownership interest in a provider, or being an officer or board~~ 61453  
~~member of a provider. The department may designate the categories~~ 61454  
~~of persons who are subject to the criminal records check~~ 61455  
~~requirement. The department shall designate the times at which the~~ 61456  
~~criminal records checks must be conducted.~~ 61457

~~(2) The section does not apply to providers, applicants to be~~ 61458  
~~providers, employees of a provider, or prospective employees of a~~ 61459  
~~provider who are subject to criminal records checks under section~~ 61460  
~~5111.033 or 5111.034 of the Revised Code;~~ 61461

(2) Require that any provider or applicant to be a provider 61462  
require an owner or prospective owner, officer or prospective 61463

officer, or board member or prospective board member of the 61464  
provider or applicant submit to a criminal records check as a 61465  
condition of being an owner, officer, or board member of the 61466  
provider or applicant; 61467

(3) Require that any provider or applicant to be a provider 61468  
do the following: 61469

(a) If so required by rules adopted under this section, 61470  
determine pursuant to a database review conducted under division 61471  
(F)(1)(a) of this section whether any employee or prospective 61472  
employee of the provider or applicant is included in a database; 61473

(b) Unless the provider or applicant is prohibited by 61474  
division (D)(3)(b) of this section from employing the employee or 61475  
prospective employee, require the employee or prospective employee 61476  
to submit to a criminal records check as a condition of being an 61477  
employee of the provider or applicant. 61478

(D)(1) The department or the department's designee shall 61479  
terminate a provider's medicaid provider agreement or deny an 61480  
applicant's application for a medicaid provider agreement if the 61481  
provider or applicant is a person subject to the criminal records 61482  
check requirement and either of the following applies: 61483

(a) The provider or applicant fails to obtain the criminal 61484  
records check after being given the information specified in 61485  
division (G)(1) of this section. 61486

(b) Except as provided in rules adopted under this section, 61487  
the provider or applicant is found by the criminal records check 61488  
to have been convicted of, pleaded guilty to, or been found 61489  
eligible for intervention in lieu of conviction for a 61490  
disqualifying offense, regardless of the date of the conviction, 61491  
the date of entry of the guilty plea, or the date the applicant or 61492  
provider was found eligible for intervention in lieu of 61493  
conviction. 61494

(2) No provider or applicant to be a provider shall permit a person to be an owner, officer, or board member of the provider or applicant if the person is a person subject to the criminal records check requirement and either of the following applies: 61495  
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(a) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section. 61499  
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(b) Except as provided in rules adopted under this section, the person is found by the criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction. 61502  
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(3) No provider or applicant to be a provider shall employ a person if any of the following apply: 61509  
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(a) The person has been excluded from providing services or items under the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program. 61511  
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(b) If the person is subject to a database review conducted under division (F)(1)(a) of this section, the person is found by the database review to be included in a database and the rules adopted under this section regarding the database review prohibit the provider or applicant from employing a person included in the database. 61515  
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(c) If the person is a person subject to the criminal records check requirement, either of the following applies: 61521  
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(i) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section. 61523  
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(ii) Except as provided in rules adopted under this section, 61526  
the person is found by the criminal records check to have been 61527  
convicted of, pleaded guilty to, or been found eligible for 61528  
intervention in lieu of conviction for a disqualifying offense, 61529  
regardless of the date of the conviction, the date of entry of the 61530  
guilty plea, or the date the person was found eligible for 61531  
intervention in lieu of conviction. 61532

~~(C)(E)(1)~~ The department or the department's designee shall 61533  
inform each provider or applicant to be a provider whether the 61534  
provider or applicant is subject to a criminal records check 61535  
~~requirement under division (B) of this section.~~ For providers, the 61536  
information shall be given at times designated in rules adopted 61537  
under this section. For applicants to be providers, the 61538  
information shall be given at the time of initial application. 61539  
When the information is given, the department or the department's 61540  
designee shall specify ~~which~~ the following: 61541

(a) Which of the provider's or applicant's ~~employees or~~ 61542  
~~prospective employees,~~ owners or prospective owners, officers or 61543  
prospective officers, or board members or prospective board 61544  
members are subject to ~~the~~ a criminal records check ~~requirement;~~ 61545

(b) Which of the provider's or applicant's employees or 61546  
prospective employees are subject to division (C)(3) of this 61547  
section. 61548

(2) At times designated in rules adopted under this section, 61549  
a provider or applicant to be a provider that is a person subject 61550  
to the criminal records check requirement shall ~~inform~~ do the 61551  
following: 61552

(a) Inform each person specified ~~by the department~~ under 61553  
division ~~(C)(1)(E)(1)(a)~~ of this section that the person is 61554  
required, ~~as applicable,~~ to submit to a criminal records check ~~for~~ 61555  
~~final consideration for employment in a full-time, part-time, or~~ 61556

~~temporary position; as a condition of continued employment; or as~~ 61557  
~~a condition of becoming or continuing to be being an owner,~~ 61558  
~~officer, or board member or owner of a the provider or applicant;~~ 61559

(b) Inform each person specified under division (E)(1)(b) of 61560  
this section that the person is subject to division (C)(3) of this 61561  
section. 61562

~~(D)(F)(1) If a provider or applicant to be a provider is a~~ 61563  
~~person subject to a the criminal records check under this section~~ 61564  
~~requirement, the department or the department's designee shall~~ 61565  
~~require the conduct of a criminal records check by the~~ 61566  
~~superintendent of the bureau of criminal identification and~~ 61567  
~~investigation. If a provider or applicant to be a provider for~~ 61568  
~~whom a criminal records check is required does not present proof~~ 61569  
~~of having been a resident of this state for the five year period~~ 61570  
~~immediately prior to the date the criminal records check is~~ 61571  
~~requested or provide evidence that within that five year period~~ 61572  
~~the superintendent has requested information about the individual~~ 61573  
~~from the federal bureau of investigation in a criminal records~~ 61574  
~~check, the department shall require the provider or applicant to~~ 61575  
~~request that the superintendent obtain information from the~~ 61576  
~~federal bureau of investigation as part of the criminal records~~ 61577  
~~check of the provider or applicant. Even if a provider or~~ 61578  
~~applicant for whom a criminal records check request is required~~ 61579  
~~presents proof of having been a resident of this state for the~~ 61580  
~~five year period, the department may require that the provider or~~ 61581  
~~applicant request that the superintendent obtain information from~~ 61582  
~~the federal bureau of investigation and include it in the criminal~~ 61583  
~~records check of the provider or applicant.~~ 61584

(2) investigation. A provider or applicant to be a provider 61585  
shall require the conduct of a criminal records check by the 61586  
superintendent with respect to each of the persons specified by 61587  
the department under division ~~(C)(1)~~(E)(1)(a) of this section. ~~If~~ 61588

~~the person for whom a criminal records check is required does not~~ 61589  
~~present proof of having been a resident of this state for the~~ 61590  
~~five year period immediately prior to the date the criminal~~ 61591  
~~records check is requested or provide evidence that within that~~ 61592  
~~five year period the superintendent of the bureau of criminal~~ 61593  
~~identification and investigation has requested information about~~ 61594  
~~the individual from the federal bureau of investigation in a~~ 61595  
~~criminal records check, the individual shall request that the~~ 61596  
~~superintendent obtain information from the federal bureau of~~ 61597  
~~investigation as part of the criminal records check of the~~ 61598  
~~individual. Even if an individual for whom a criminal records~~ 61599  
~~check request is required presents proof of having been a resident~~ 61600  
~~of this state for the five year period, the department may require~~ 61601  
~~the provider to request that the superintendent obtain information~~ 61602  
~~from the federal bureau of investigation and include it in the~~ 61603  
~~criminal records check of the person. With respect to each~~ 61604  
~~employee and prospective employee specified under division~~ 61605  
~~(E)(1)(b) of this section, a provider or applicant to be a~~ 61606  
~~provider shall do the following:~~ 61607

(a) If rules adopted under this section require the provider 61608  
or applicant to conduct a database review to determine whether the 61609  
employee or prospective employee is included in a database, 61610  
conduct the database review in accordance with the rules; 61611

(b) Unless the provider or applicant is prohibited by 61612  
division (D)(3)(b) of this section from employing the employee or 61613  
prospective employee, require the conduct of a criminal records 61614  
check of the employee or prospective employee by the 61615  
superintendent. 61616

(2) If a person subject to the criminal records check 61617  
requirement does not present proof of having been a resident of 61618  
this state for the five-year period immediately prior to the date 61619  
the criminal records check is requested or provide evidence that 61620

within that five-year period the superintendent has requested 61621  
information about the person from the federal bureau of 61622  
investigation in a criminal records check, the responsible entity 61623  
shall require the person to request that the superintendent obtain 61624  
information from the federal bureau of investigation as part of 61625  
the criminal records check of the person. Even if the person 61626  
presents proof of having been a resident of this state for the 61627  
five-year period, the responsible entity may require that the 61628  
person request that the superintendent obtain information from the 61629  
federal bureau of investigation and include it in the criminal 61630  
records check of the person. 61631

~~(E)(1)(G)~~ Criminal records checks required ~~under~~ by this 61632  
section ~~for providers or applicants to be providers~~ shall be 61633  
obtained as follows: 61634

~~(a)(1)~~ The ~~department~~ responsible entity shall provide each 61635  
~~provider or applicant~~ person subject to the criminal records check 61636  
requirement information about accessing and completing the form 61637  
prescribed pursuant to division (C)(1) of section 109.572 of the 61638  
Revised Code and the standard ~~fingerprint~~ impression sheet 61639  
prescribed pursuant to division (C)(2) of that section. 61640

~~(b)(2)~~ The ~~provider or applicant~~ person subject to the 61641  
criminal records check requirement shall submit the required form 61642  
and one complete set of the person's fingerprint impressions 61643  
directly to the superintendent for purposes of conducting the 61644  
criminal records check using the applicable methods prescribed by 61645  
division (C) of section 109.572 of the Revised Code. The ~~applicant~~ 61646  
~~or provider~~ person shall pay all fees associated with obtaining 61647  
the criminal records check. 61648

~~(e)(3)~~ The superintendent shall conduct the criminal records 61649  
check in accordance with section 109.572 of the Revised Code. The 61650  
~~provider or applicant~~ person subject to the criminal records check 61651  
requirement shall instruct the superintendent to submit the report 61652

of the criminal records check directly to the ~~director of job and~~ 61653  
~~family services.~~ 61654

~~(2) Criminal records checks required under this section for~~ 61655  
~~persons specified by the department under division (C)(1) of this~~ 61656  
~~section shall be obtained as follows:~~ 61657

~~(a) The provider shall give to each person subject to~~ 61658  
~~criminal records check requirement information about accessing and~~ 61659  
~~completing the form prescribed pursuant to division (C)(1) of~~ 61660  
~~section 109.572 of the Revised Code and the standard fingerprint~~ 61661  
~~impression sheet prescribed pursuant to division (C)(2) of that~~ 61662  
~~section.~~ 61663

~~(b) The person shall submit the required form and one~~ 61664  
~~complete set of fingerprint impressions directly to the~~ 61665  
~~superintendent for purposes of conducting the criminal records~~ 61666  
~~check using the applicable methods prescribed by division (C) of~~ 61667  
~~section 109.572 of the Revised Code. The person shall pay all fees~~ 61668  
~~associated with obtaining the criminal records check.~~ 61669

~~(c) The superintendent shall conduct the criminal records~~ 61670  
~~check in accordance with section 109.572 of the Revised Code. The~~ 61671  
~~person subject to the criminal records check shall instruct the~~ 61672  
~~superintendent to submit the report of the criminal records check~~ 61673  
~~directly to the provider responsible entity. The If the department~~ 61674  
~~or the department's designee is not the responsible entity, the~~ 61675  
~~department or designee may require the provider responsible entity~~ 61676  
~~to submit the report to the department or designee.~~ 61677

~~(F) If a provider or applicant to be a provider is given the~~ 61678  
~~information specified in division (E)(1)(a) of this section but~~ 61679  
~~fails to obtain a criminal records check, the department shall, as~~ 61680  
~~applicable, terminate the provider agreement or deny the~~ 61681  
~~application to be a provider.~~ 61682

~~If a person is given the information specified in division~~ 61683

~~(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.~~ 61684  
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~~(G) Except as provided in rules adopted under division (J) of this section, the department shall terminate the provider agreement of a provider or the department shall not issue a provider agreement to an applicant if the provider or applicant is subject to a criminal records check under this section and the provider or applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the applicant or provider was found eligible for intervention in lieu of conviction:~~ 61687  
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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~~ 61698  
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~~existed prior to July 1, 1996, a violation of section 2919.23 of 61716  
the Revised Code that would have been a violation of section 61717  
2905.04 of the Revised Code as it existed prior to July 1, 1996, 61718  
had the violation been committed prior to that date; 61719~~

~~(2) A violation of an existing or former municipal ordinance 61720  
or law of this state, any other state, or the United States that 61721  
is substantially equivalent to any of the offenses listed in 61722  
division (C)(1) of this section. 61723~~

~~(H)(1)(a) Except as provided in rules adopted under division 61724  
(J) of this section and subject to division (H)(2) of this 61725  
section, no provider shall permit a person to be an employee, 61726  
owner, officer, or board member of the provider if the person is 61727  
subject to a criminal records check under this section and the 61728  
person has been convicted of, has pleaded guilty to, or has been 61729  
found eligible for intervention in lieu of conviction for any of 61730  
the offenses specified in division (C)(1) or (2) of this section. 61731~~

~~(b) No provider shall employ a person who has been excluded 61732  
from participating in the medicaid program, the medicare program 61733  
operated pursuant to Title XVIII of the "Social Security Act," or 61734  
any other federal health care program. 61735~~

~~(2)(a)(H)(1) A provider or applicant to be a provider may 61736  
employ conditionally a person for whom a criminal records check is 61737  
required ~~under~~ by this section prior to obtaining the results of a 61738  
the criminal records check ~~regarding the person, but only if the~~ 61739  
both of the following apply: 61740~~

~~(a) The provider or applicant is not prohibited by division 61741  
(D)(3)(b) of this section from employing the person. 61742~~

~~(b) The person submits a request for a the criminal records 61743  
check not later than five business days after the ~~individual~~ 61744  
person begins conditional employment. 61745~~

~~(b)(2) A provider or applicant to be a provider that employs 61746~~

a person conditionally under ~~authority of~~ division (H)~~(2)(a)(1)~~ of 61747  
this section shall terminate the person's employment if the 61748  
results of the criminal records check request are not obtained 61749  
within the period ending sixty days after the date the request is 61750  
made. Regardless of when the results of the criminal records check 61751  
are obtained, if the results indicate that the ~~individual~~ person 61752  
has been convicted of, has pleaded guilty to, or has been found 61753  
eligible for intervention in lieu of conviction for ~~any of the~~ 61754  
~~offenses specified in division (G)(1) or (2) of this section~~ a 61755  
disqualifying offense, the provider or applicant shall terminate 61756  
the person's employment unless circumstances specified in rules 61757  
adopted under this section exist that permit the provider or 61758  
applicant to employ the person and the provider or applicant 61759  
chooses to employ the ~~individual pursuant to division (J) of this~~ 61760  
~~section~~ person. 61761

(I) The report of a criminal records check conducted pursuant 61762  
to this section is not a public record for the purposes of section 61763  
149.43 of the Revised Code and shall not be made available to any 61764  
person other than the following: 61765

(1) The person who is the subject of the criminal records 61766  
check or the person's representative; 61767

(2) The director of job and family services and the staff of 61768  
the department in the administration of the medicaid program; 61769

(3) The department's designee; 61770

(4) The provider or applicant to be a provider who required 61771  
the person who is the subject of the criminal records check to 61772  
submit to the criminal records check; 61773

(5) A court, hearing officer, or other necessary individual 61774  
involved in a case dealing with ~~the~~ any of the following: 61775

(a) The denial or termination of a medicaid provider 61776  
agreement; 61777

~~(4) A court, hearing officer, or other necessary individual involved in a case dealing with a~~ 61778  
~~(b) A person's denial of~~ 61779  
employment, termination of employment, or employment or 61780  
unemployment benefits; 61781

(c) A civil or criminal action regarding the medicaid 61782  
program. 61783

(J) The ~~department~~ director of job and family services may 61784  
adopt rules in accordance with Chapter 119. of the Revised Code to 61785  
implement this section. If the director adopts such rules, the 61786  
rules shall designate the times at which a criminal records check 61787  
must be conducted under this section. The rules may ~~specify~~ do any 61788  
of the following: 61789

(1) Designate the categories of persons who are subject to a 61790  
criminal records check under this section; 61791

(2) Specify circumstances under which the department or the 61792  
department's designee may continue a medicaid provider agreement 61793  
or issue a medicaid provider agreement to an applicant when the 61794  
provider or applicant ~~has~~ is found by a criminal records check to 61795  
have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found 61796  
eligible for intervention in lieu of conviction for ~~any of the~~ 61797  
~~offenses specified in division (C)(1) or (2) of this section.~~ The 61798  
~~rules may also specify~~ a disqualifying offense; 61799

(3) Specify circumstances under which a provider or applicant 61800  
to be a provider may permit a person to be an employee, owner, 61801  
officer, or board member of the provider or applicant, when the 61802  
person ~~has~~ is found by a criminal records check conducted pursuant 61803  
to this section to have been convicted of, ~~has~~ pleaded guilty to, 61804  
or ~~has~~ been found eligible for intervention in lieu of conviction 61805  
for ~~any of the offenses specified in division (C)(1) or (2) of~~ 61806  
~~this section~~ a disqualifying offense; 61807

(4) Specify all of the following: 61808

(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; 61809  
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(b) The procedures for conducting the database review; 61813

(c) The databases that are to be checked; 61814

(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. 61815  
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**Sec. 5111.033.** (A) As used in this section: 61818

~~(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.~~ 61819  
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~~(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.~~ 61828  
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~~(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.~~ 61830  
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~~(4) "Home Disqualifying offense" has the same meaning as in section 5111.032 of the Revised Code.~~ 61837  
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"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. 61839  
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"Home and community-based ~~waiver~~ services medicaid waiver component" means ~~services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital~~ has the same meaning as in section 5111.85 of the Revised Code. Home and community-based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan. 61842  
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"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. 61850  
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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: 61857  
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(1) A review of the databases listed in division (D) of this section reveals any of the following: 61860  
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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; 61862  
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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 61865  
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such a resident; 61870

(c) That the applicant or employee is included in one or more 61871  
of the databases, if any, specified in rules adopted under this 61872  
section and the rules prohibit the waiver agency from employing an 61873  
applicant or continuing to employ an employee included in such a 61874  
database in a position that involves providing home and 61875  
community-based services. 61876

(2) After the applicant or employee is given the information 61877  
and notification required by divisions (E)(2)(a) and (b) of this 61878  
section, the applicant or employee fails to do either of the 61879  
following: 61880

(a) Access, complete, or forward to the superintendent of the 61881  
bureau of criminal identification and investigation the form 61882  
prescribed to division (C)(1) of section 109.572 of the Revised 61883  
Code or the standard impression sheet prescribed pursuant to 61884  
division (C)(2) of that section; 61885

(b) Instruct the superintendent to submit the completed 61886  
report of the criminal records check required by this section 61887  
directly to the chief administrator of the waiver agency. 61888

(3) Except as provided in rules adopted under this section, 61889  
the applicant or employee is found by a criminal records check 61890  
required by this section to have been convicted of, pleaded guilty 61891  
to, or been found eligible for intervention in lieu of conviction 61892  
for a disqualifying offense, regardless of the date of the 61893  
conviction, date of entry of the guilty plea, or the date the 61894  
applicant or employee was found eligible for intervention in lieu 61895  
of conviction. 61896

(C) At the time of each applicant's initial application for 61897  
employment in a position that involves providing home and 61898  
community-based services, the chief administrator of a waiver 61899  
agency shall inform the applicant of both of the following: 61900

(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; 61901  
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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. 61905  
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(D) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall 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 waiver 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 home and community-based services. A database review shall determine whether the applicant or employee is included in any of the following: 61910  
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(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation; 61921  
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(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; 61924  
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(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code; 61930  
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(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code; 61932  
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(5) The internet-based database of inmates established under section 5120.66 of the Revised Code; 61935  
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(6) The state nurse aide registry established under section 3721.32 of the Revised Code; 61937  
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(7) Any other database, if any, specified in rules adopted under this section. 61939  
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(E)(1) The As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require each the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to of the applicant. If rules adopted under this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing home and community-based services. If an applicant or employee for whom a criminal records check request is required under this division by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal 61941  
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records check, the chief administrator shall require the applicant 61964  
or employee to request that the superintendent obtain information 61965  
from the federal bureau of investigation as part of the criminal 61966  
records check ~~of the applicant~~. Even if an applicant or employee 61967  
for whom a criminal records check request is required ~~under this~~ 61968  
~~division~~ by this section presents proof of having been a resident 61969  
of this state for the five-year period, the chief administrator 61970  
may require the applicant or employee to request that the 61971  
superintendent include information from the federal bureau of 61972  
investigation in the criminal records check. 61973

(2) The chief administrator shall provide the following to 61974  
each applicant and employee for whom a criminal records check 61975  
~~request~~ is required ~~under division (B)(1) of~~ by this section: 61976

(a) Information about accessing, completing, and forwarding 61977  
to the superintendent of the bureau of criminal identification and 61978  
investigation the form prescribed pursuant to division (C)(1) of 61979  
section 109.572 of the Revised Code and the standard ~~fingerprint~~ 61980  
impression sheet prescribed pursuant to division (C)(2) of that 61981  
section; 61982

(b) Written notification that the applicant or employee is to 61983  
instruct the superintendent to submit the completed report of the 61984  
criminal records check directly to the chief administrator. 61985

(3) ~~An applicant given information and notification under~~ 61986  
~~divisions (B)(2)(a) and (b) of this section who fails to access,~~ 61987  
~~complete, and forward to the superintendent the form or the~~ 61988  
~~standard fingerprint impression sheet, or who fails to instruct~~ 61989  
~~the superintendent to submit the completed report of the criminal~~ 61990  
~~records check directly to the chief administrator, shall not be~~ 61991  
~~employed in any position in a waiver agency for which a criminal~~ 61992  
~~records check is required by this section. A waiver agency shall~~ 61993  
pay to the bureau of criminal identification and investigation the 61994  
fee prescribed pursuant to division (C)(3) of section 109.572 of 61995

the Revised Code for any criminal records check required by this 61996  
section. However, a waiver agency may require an applicant to pay 61997  
to the bureau the fee for a criminal records check of the 61998  
applicant. If the waiver agency pays the fee for an applicant, it 61999  
may charge the applicant a fee not exceeding the amount the waiver 62000  
agency pays to the bureau under this section if the waiver agency 62001  
notifies the applicant at the time of initial application for 62002  
employment of the amount of the fee and that, unless the fee is 62003  
paid, the applicant will not be considered for employment. 62004

~~(C)(1) Except as provided in rules adopted by the department~~ 62005  
~~of job and family services in accordance with division (F) of this~~ 62006  
~~section and subject to division (C)(2) of this section, no waiver~~ 62007  
~~agency shall employ a person in a position that involves providing~~ 62008  
~~home and community based waiver services to persons with~~ 62009  
~~disabilities if the person has been convicted of, has pleaded~~ 62010  
~~guilty to, or has been found eligible for intervention in lieu of~~ 62011  
~~conviction for any of the following, regardless of the date of the~~ 62012  
~~conviction, the date of entry of the guilty plea, or the date the~~ 62013  
~~person was found eligible for intervention in lieu of conviction.~~ 62014

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03,~~ 62015  
~~2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,~~ 62016  
~~2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,~~ 62017  
~~2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,~~ 62018  
~~2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24,~~ 62019  
~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,~~ 62020  
~~2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01,~~ 62021  
~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04,~~ 62022  
~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41,~~ 62023  
~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47,~~ 62024  
~~2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11,~~ 62025  
~~2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03,~~ 62026  
~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02,~~ 62027

~~2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 62028  
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 62029  
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 62030  
penetration in violation of former section 2907.12 of the Revised 62031  
Code, a violation of section 2905.04 of the Revised Code as it 62032  
existed prior to July 1, 1996, a violation of section 2919.23 of 62033  
the Revised Code that would have been a violation of section 62034  
2905.04 of the Revised Code as it existed prior to July 1, 1996, 62035  
had the violation been committed prior to that date;~~ 62036

~~(b) A violation of an existing or former municipal ordinance 62037  
or law of this state, any other state, or the United States that 62038  
is substantially equivalent to any of the offenses listed in 62039  
division (C)(1)(a) of this section.~~ 62040

~~(2)(a)(F)(1) A waiver agency may employ conditionally an 62041  
applicant for whom a criminal records check request is required 62042  
under division (B) of by this section prior to obtaining the 62043  
results of a the criminal records check regarding the individual, 62044  
provided that the if both of the following apply: 62045~~

~~(a) The waiver agency is not prohibited by division (B)(1) of 62046  
this section from employing the applicant in a position that 62047  
involves providing home and community-based services. 62048~~

~~(b) The chief administrator of the waiver agency shall 62049  
require requires the individual applicant to request a criminal 62050  
records check regarding the individual applicant in accordance 62051  
with division (B)(E)(1) of this section not later than five 62052  
business days after the individual applicant begins conditional 62053  
employment. 62054~~

~~(b)(2) A waiver agency that employs an individual applicant 62055  
conditionally under authority of division (C)(2)(a)(F)(1) of this 62056  
section shall terminate the individual's applicant's employment if 62057  
the results of the criminal records check request under division 62058~~

~~(E) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses listed or described in division (C)(1) of this section a disqualifying offense, the waiver agency shall terminate the individual's applicant's employment unless circumstances specified in rules adopted under this section exist that permit the waiver agency to employ the applicant and the waiver agency chooses to employ the individual pursuant to division (F) of this section applicant.~~

~~(D)(1) 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 (B) of this section shall be paid to the bureau of criminal identification and investigation by the applicant or the waiver agency.~~

~~(2) If a waiver agency pays the fee, it may charge the applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if the agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.~~

~~(E)(G) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:~~

- (1) The ~~individual~~ applicant or employee who is the subject of the criminal records check or the ~~individual's~~ representative of the applicant or employee; 62091  
62092  
62093
- (2) The chief administrator of the waiver agency ~~requesting~~ that requires the applicant or employee to request the criminal records check or the administrator's representative; 62094  
62095  
62096
- (3) ~~An administrator at~~ The director of job and family services and the staff of the department in the administration of the medicaid program; 62097  
62098  
62099
- (4) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ any of the following: 62100  
62101
- (a) A denial of employment of the applicant or ~~dealing with~~ employment employee; 62102  
62103
- (b) Employment or unemployment benefits of the applicant or employee; 62104  
62105
- (c) A civil or criminal action regarding the medicaid program. 62106  
62107
- ~~(F)~~(H) The ~~department~~ director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. ~~The~~ 62108  
62109  
62110
- (1) The rules may do the following: 62111
- (a) Require employees to undergo database reviews and criminal records checks under this section; 62112  
62113
- (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; 62114  
62115  
62116
- (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. 62117  
62118  
62119

|   |       |
|---|-------|
| <u>(2) The rules shall specify all of the following:</u>  | 62120 |
| <u>(a) The procedures for conducting a database review under this section;</u>  | 62121 |
|   | 62122 |
| <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>  | 62123 |
|   | 62124 |
|   | 62125 |
|   | 62126 |
| <u>(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;</u>   | 62127 |
|   | 62128 |
|   | 62129 |
|   | 62130 |
|   | 62131 |
| <u>(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.</u>  | 62132 |
|   | 62133 |
|   | 62134 |
|   | 62135 |
|   | 62136 |
|   | 62137 |
| <del>(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.</del> | 62138 |
|   | 62139 |
|   | 62140 |
|   | 62141 |
|   | 62142 |
|   | 62143 |
|   | 62144 |
| <del>(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.</del>   | 62145 |
|   | 62146 |
|   | 62147 |
|   | 62148 |
|   | 62149 |
|   | 62150 |

~~(2) This section shall not apply to a person to whom all of the following apply:~~ 62151  
62152

~~(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.~~ 62153  
62154  
62155  
62156

~~(b) The person previously had been the subject of a criminal background check relating to that position;~~ 62157  
62158

~~(c) The person has been continuously employed in that position since that criminal background check had been conducted.~~ 62159  
62160

(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 (H) of this section as that division existed on the day preceding the effective date of this amendment. 62161  
62162  
62163  
62164  
62165

**Sec. 5111.034.** (A) As used in this section: 62166

~~(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.~~ 62167  
62168  
62169

~~(2) "Criminal Applicant" means a person who has applied for a medicaid provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of job and family services.~~ 62170  
62171  
62172  
62173  
62174

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 62175  
62176

~~(3) "Department" includes a designee of the department of job and family services.~~ 62177  
62178

~~(4) "Independent Disqualifying offense" has the same meaning~~ 62179

as in section 5111.032 of the Revised Code. 62180

"Independent provider" means a person who is submitting an 62181  
application for a provider agreement or who has a medicaid 62182  
provider agreement to provide home and community-based services as 62183  
an independent provider in a home and community-based services 62184  
medicaid waiver component administered by the department of job 62185  
and family services administered home and community-based services 62186  
program providing home and community based waiver services to 62187  
consumers with disabilities. 62188

(5) "Home and community-based ~~waiver~~ services medicaid waiver 62189  
component" has the same meaning as in section ~~5111.033~~ 5111.85 of 62190  
the Revised Code. 62191

(B) The department of job and family services or the 62192  
department's designee shall deny an applicant's application for a 62193  
medicaid provider agreement and shall terminate an independent 62194  
provider's medicaid provider agreement if either of the following 62195  
applies: 62196

(1) After the applicant or independent provider is given the 62197  
information and notification required by divisions (D)(2)(a) and 62198  
(b) of this section, the applicant or independent provider fails 62199  
to do either of the following: 62200

(a) Access, complete, or forward to the superintendent of the 62201  
bureau of criminal identification and investigation the form 62202  
prescribed pursuant to division (C)(1) of section 109.572 of the 62203  
Revised Code or the standard impression sheet prescribed pursuant 62204  
to division (C)(2) of that section; 62205

(b) Instruct the superintendent to submit the completed 62206  
report of the criminal records check required by this section 62207  
directly to the department or the department's designee. 62208

(2) Except as provided in rules adopted under this section, 62209  
the applicant or independent provider is found by a criminal 62210

records check required by this section to have been convicted of, 62211  
pleaded guilty to, or been found eligible for intervention in lieu 62212  
of conviction for a disqualifying offense, regardless of the date 62213  
of the conviction, the date of entry of the guilty plea, or the 62214  
date the applicant or independent provider was found eligible for 62215  
intervention in lieu of conviction. 62216

(C)(1) The department of job and family services or the 62217  
department's designee shall inform each independent provider 62218  
applicant, at the time of initial application for a medicaid 62219  
provider agreement that involves providing home and 62220  
community based waiver services to consumers with disabilities, 62221  
that the independent provider applicant is required to provide a 62222  
set of the applicant's fingerprint impressions and that a criminal 62223  
records check is required to be conducted if the person is to 62224  
become an independent provider in a department administered home 62225  
and community based waiver program as a condition of the 62226  
department's approving the application. 62227

(2) Beginning on September 26, 2003, the department or the 62228  
department's designee shall inform each enrolled medicaid 62229  
independent provider on or before the time of the anniversary date 62230  
of the medicaid provider agreement that involves providing home 62231  
and community based waiver services to consumers with disabilities 62232  
that the independent provider is required to provide a set of the 62233  
independent provider's fingerprint impressions and that a criminal 62234  
records check is required to be conducted. 62235

~~(C)~~(D)(1) The department or the department's designee shall 62236  
require the independent provider an applicant to complete a 62237  
criminal records check prior to entering into a medicaid provider 62238  
agreement with the independent provider and applicant. The 62239  
department or the department's designee shall require an 62240  
independent provider to complete a criminal records check at least 62241  
annually thereafter. If an applicant or independent provider for 62242

whom a criminal records check is required ~~under this division~~ by 62243  
this section does not present proof of having been a resident of 62244  
this state for the five-year period immediately prior to the date 62245  
the criminal records check is requested or provide evidence that 62246  
within that five-year period the superintendent of the bureau of 62247  
criminal identification and investigation has requested 62248  
information about the applicant or independent provider from the 62249  
federal bureau of investigation in a criminal records check, the 62250  
department or the department's designee shall request that the 62251  
applicant or independent provider obtain through the 62252  
superintendent a criminal records request from the federal bureau 62253  
of investigation as part of the criminal records check of the 62254  
applicant or independent provider. Even if an applicant or 62255  
independent provider for whom a criminal records check request is 62256  
required ~~under this division~~ by this section presents proof of 62257  
having been a resident of this state for the five-year period, the 62258  
department or the department's designee may request that the 62259  
applicant or independent provider obtain information through the 62260  
superintendent from the federal bureau of investigation in the 62261  
criminal records check. 62262

(2) The department or the department's designee shall provide 62263  
the following to each applicant and independent provider for whom 62264  
a criminal records check ~~request~~ is required ~~under division (C)(1)~~ 62265  
~~of~~ by this section: 62266

(a) Information about accessing, completing, and forwarding 62267  
to the superintendent of the bureau of criminal identification and 62268  
investigation the form prescribed pursuant to division (C)(1) of 62269  
section 109.572 of the Revised Code and the standard ~~fingerprint~~ 62270  
impression sheet prescribed pursuant to division (C)(2) of that 62271  
section; 62272

(b) Written notification that the applicant or independent 62273  
provider is to instruct the superintendent to submit the completed 62274

report of the criminal records check directly to the department or 62275  
the department's designee. 62276

~~(3) An independent provider given information and 62277  
notification under divisions (C)(2)(a) and (b) of this section who 62278  
fails to access, complete, and forward to the superintendent the 62279  
form or the standard fingerprint impression sheet, or who fails to 62280  
instruct the superintendent to submit the completed report of the 62281  
criminal records check directly to the department, shall not be 62282  
approved as an independent provider. Each applicant and 62283  
independent provider for whom a criminal records check is required 62284  
by this section shall pay to the bureau of criminal identification 62285  
and investigation the fee prescribed pursuant to division (C)(3) 62286  
of section 109.572 of the Revised Code for the criminal records 62287  
check conducted of the applicant or independent provider. 62288~~

~~(D) Except as provided in rules adopted by the department in 62289  
accordance with division (G) of this section, the department shall 62290  
not issue a new provider agreement to, and shall terminate an 62291  
existing provider agreement of, an independent provider if the 62292  
person has been convicted of, has pleaded guilty to, or has been 62293  
found eligible for intervention in lieu of conviction for any of 62294  
the following, regardless of the date of the conviction, the date 62295  
of entry of the guilty plea, or the date the person was found 62296  
eligible for intervention in lieu of conviction:~~ 62297

~~(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 62298  
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 62299  
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 62300  
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 62301  
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 62302  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 62303  
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 62304  
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 62305  
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 62306~~

~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 62307  
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 62308  
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 62309  
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 62310  
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 62311  
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 62312  
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 62313  
penetration in violation of former section 2907.12 of the Revised 62314  
Code, a violation of section 2905.04 of the Revised Code as it 62315  
existed prior to July 1, 1996, a violation of section 2919.23 of 62316  
the Revised Code that would have been a violation of section 62317  
2905.04 of the Revised Code as it existed prior to July 1, 1996, 62318  
had the violation been committed prior to that date;~~ 62319

~~(2) A violation of an existing or former municipal ordinance 62320  
or law of this state, any other state, or the United States that 62321  
is substantially equivalent to any of the offenses listed in 62322  
division (D)(1) of this section. 62323~~

~~(E) Each independent provider shall pay to the bureau of 62324  
criminal identification and investigation the fee prescribed 62325  
pursuant to division (C)(3) of section 109.572 of the Revised Code 62326  
for each criminal records check conducted pursuant to a request 62327  
made under division (C) of this section. 62328~~

~~(F)(E) The report of any criminal records check conducted by 62329  
the bureau of criminal identification and investigation in 62330  
accordance with section 109.572 of the Revised Code and pursuant 62331  
to a request made under ~~division (C) of~~ this section is not a 62332  
public record for the purposes of section 149.43 of the Revised 62333  
Code and shall not be made available to any person other than the 62334  
following: 62335~~

~~(1) The person who is the subject of the criminal records 62336  
check or the person's representative; 62337~~

(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; 62338  
62339  
62340

(3) The department's designee; 62341

(4) An individual who receives home and community-based services from the person who is the subject of the criminal records check; 62342  
62343  
62344

(5) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ either of the following: 62345  
62346

(a) A denial or termination of a provider agreement related to the criminal records check; 62347  
62348

(b) A civil or criminal action regarding the medicaid program. 62349  
62350

~~(G)~~(F) The department director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department or the department's designee may either ~~issue a provider agreement to an independent provider~~ approve an applicant's application or allow an independent provider to maintain an existing medicaid provider agreement ~~when~~ even though the applicant or independent provider ~~has~~ is found by a criminal records check required by this section to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found eligible for intervention in lieu of conviction for ~~an~~ offense listed or described in division (D)(1) or (2) of this section a disqualifying offense. 62351  
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**Sec. 5111.06.** (A)(1) As used in this section and in sections 5111.061 and 5111.063 of the Revised Code: 62364  
62365

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the 62366  
62367

department of job and family services pursuant to Title XIX of the 62368  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 62369  
amended. 62370

(b) "Party" has the same meaning as in division (G) of 62371  
section 119.01 of the Revised Code. 62372

(c) "Adjudication" has the same meaning as in division (D) of 62373  
section 119.01 of the Revised Code. 62374

(2) This section does not apply to ~~any~~ either of the 62375  
following: 62376

(a) Any action taken or decision made by the department of 62377  
job and family services with respect to entering into or refusing 62378  
to enter into a contract with a managed care organization pursuant 62379  
to section 5111.17 of the Revised Code; 62380

(b) Any action taken by the department under sections 5111.16 62381  
to 5111.177 or sections 5111.35 to 5111.62 of the Revised Code. 62382

(B) Except as provided in division (D) of this section and 62383  
section 5111.914 of the Revised Code, the department shall do 62384  
either of the following by issuing an order pursuant to an 62385  
adjudication conducted in accordance with Chapter 119. of the 62386  
Revised Code: 62387

(1) Enter into or refuse to enter into a provider agreement 62388  
with a provider, or suspend, terminate, renew, or refuse to renew 62389  
an existing provider agreement with a provider; 62390

(2) Take any action based upon a final fiscal audit of a 62391  
provider. 62392

(C) Any party who is adversely affected by the issuance of an 62393  
adjudication order under division (B) of this section may appeal 62394  
to the court of common pleas of Franklin county in accordance with 62395  
section 119.12 of the Revised Code. 62396

(D) The department is not required to comply with division 62397

(B)(1) of this section whenever any of the following occur: 62398

(1) The terms of a provider agreement require the provider to 62399  
hold a license, permit, or certificate or maintain a certification 62400  
issued by an official, board, commission, department, division, 62401  
bureau, or other agency of state or federal government other than 62402  
the department of job and family services, and the license, 62403  
permit, certificate, or certification has been denied, revoked, 62404  
not renewed, suspended, or otherwise limited. 62405

(2) The terms of a provider agreement require the provider to 62406  
hold a license, permit, or certificate or maintain certification 62407  
issued by an official, board, commission, department, division, 62408  
bureau, or other agency of state or federal government other than 62409  
the department of job and family services, and the provider has 62410  
not obtained the license, permit, certificate, or certification. 62411

(3) The provider agreement is denied, terminated, or not 62412  
renewed due to the termination, refusal to renew, or denial of a 62413  
license, permit, certificate, or certification by an official, 62414  
board, commission, department, division, bureau, or other agency 62415  
of this state other than the department of job and family 62416  
services, notwithstanding the fact that the provider may hold a 62417  
license, permit, certificate, or certification from an official, 62418  
board, commission, department, division, bureau, or other agency 62419  
of another state. 62420

(4) The provider agreement is denied, terminated, or not 62421  
renewed pursuant to division (C) or (F) of section 5111.03 of the 62422  
Revised Code. 62423

(5) The provider agreement is denied, terminated, or not 62424  
renewed due to the provider's termination, suspension, or 62425  
exclusion from the medicare program established under Title XVIII 62426  
of the "Social Security Act" or from another state's medicaid 62427  
program and, in either case, the termination, suspension, or 62428

exclusion is binding on the provider's participation in the 62429  
medicaid program in this state. 62430

(6) The provider agreement is denied, terminated, or not 62431  
renewed due to the provider's pleading guilty to or being 62432  
convicted of a criminal activity materially related to either the 62433  
medicare or medicaid program. 62434

(7) The provider agreement is denied, terminated, or 62435  
suspended as a result of action by the United States department of 62436  
health and human services and that action is binding on the 62437  
provider's participation in the medicaid program. 62438

(8) Pursuant to either section 5111.031 or 5111.035 of the 62439  
Revised Code, the provider agreement is suspended and payments to 62440  
the provider are suspended pending indictment of the provider. 62441

(9) The provider agreement is denied, terminated, or not 62442  
renewed because the provider or its owner, officer, authorized 62443  
agent, associate, manager, or employee has been convicted of one 62444  
of the offenses that caused the provider agreement to be suspended 62445  
pursuant to section 5111.031 of the Revised Code. 62446

(10) The provider agreement is converted under section 62447  
5111.028 of the Revised Code from a provider agreement that is not 62448  
time-limited to a provider agreement that is time-limited. 62449

(11) The provider agreement is terminated or an application 62450  
for re-enrollment is denied because the provider has failed to 62451  
apply for re-enrollment within the time or in the manner specified 62452  
for re-enrollment pursuant to section 5111.028 of the Revised 62453  
Code. 62454

(12) The provider agreement is suspended or terminated, or an 62455  
application for enrollment or re-enrollment is denied, for any 62456  
reason authorized or required by one or more of the following: 42 62457  
C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450. 62458

(13) The provider agreement is terminated or not renewed 62459  
because the provider has not billed or otherwise submitted a 62460  
medicaid claim to the department for two years or longer. 62461

(14) The provider agreement is denied, terminated, or not 62462  
renewed because the provider fails to provide to the department 62463  
the national provider identifier assigned the provider by the 62464  
national provider system pursuant to 45 C.F.R. 162.408. 62465

In the case of a provider described in division (D)(13) or 62466  
(14) of this section, the department may take its proposed action 62467  
against a provider agreement by sending a notice explaining the 62468  
proposed action to the provider. The notice shall be sent to the 62469  
provider's address on record with the department. The notice may 62470  
be sent by regular mail. 62471

(E) The department may withhold payments for services 62472  
rendered by a medicaid provider under the medicaid program during 62473  
the pendency of proceedings initiated under division (B)(1) of 62474  
this section. If the proceedings are initiated under division 62475  
(B)(2) of this section, the department may withhold payments only 62476  
to the extent that they equal amounts determined in a final fiscal 62477  
audit as being due the state. This division does not apply if the 62478  
department fails to comply with section 119.07 of the Revised 62479  
Code, requests a continuance of the hearing, or does not issue a 62480  
decision within thirty days after the hearing is completed. This 62481  
division does not apply to nursing facilities and intermediate 62482  
care facilities for the mentally retarded as defined in section 62483  
5111.20 of the Revised Code. 62484

**Sec. 5111.091.** ~~Not later than the first day of each calendar~~ 62485  
~~quarter~~ Semiannually, the director of job and family services 62486  
shall submit ~~a report~~ to the president and minority leader of the 62487  
senate, speaker and minority leader of the house of 62488  
representatives, and the chairpersons of the standing committees 62489

of the senate and house of representatives ~~that hear bills with~~ 62490  
primary responsibility for legislation making biennial 62491  
appropriations a report on the establishment and implementation of 62492  
programs designed to control the increase of the cost of the 62493  
medicaid program, increase the efficiency of the medicaid program, 62494  
and promote better health outcomes. In each calendar year, one 62495  
report shall be submitted not later than the last day of June and 62496  
the subsequent report shall be submitted not later than the last  
day of December. 62498

~~The report shall include information regarding all of the~~ 62499  
~~following:~~ 62500

~~(A) Provider network management;~~ 62501

~~(B) Electronic claims submission and payment systems;~~ 62502

~~(C) Limited provider contracts and payments based on~~ 62503  
~~performance;~~ 62504

~~(D) Efforts to enforce third party liability;~~ 62505

~~(E) Implementation of the medicaid information technology~~ 62506  
~~system;~~ 62507

~~(F) Expansion of the medicaid data warehouse and decision~~ 62508  
~~support system;~~ 62509

~~(G) Development of infrastructure policies for electronic~~ 62510  
~~health records and e-prescribing.~~ 62511

**Sec. 5111.113.** (A) As used in this section: 62512

(1) ~~"Adult care facility" has the same meaning as in section~~ 62513  
~~5119.70 of the Revised Code.~~ 62514

~~(2)~~ "Commissioner" means a person appointed by a probate 62515  
court under division (E) of section 2113.03 of the Revised Code to 62516  
act as a commissioner. 62517

~~(3)~~(2) "Home" has the same meaning as in section 3721.10 of 62518

the Revised Code. 62519

~~(4)~~(3) "Personal needs allowance account" means an account or 62520  
petty cash fund that holds the money of a resident of an adult 62521  
care facility or home and that the facility or home manages for 62522  
the resident. 62523

(4) "Residential facility" means a residential facility 62524  
licensed under section 5119.22 of the Revised Code that provides 62525  
accommodations, supervision, and personal care services for three 62526  
to sixteen unrelated adults. 62527

(B) Except as provided in divisions (C) and (D) of this 62528  
section, the owner or operator of ~~an adult care facility or a home~~ 62529  
or residential facility shall transfer to the department of job 62530  
and family services the money in the personal needs allowance 62531  
account of a resident of the ~~facility or home~~ or facility who was 62532  
a recipient of the medical assistance program no earlier than 62533  
sixty days but not later than ninety days after the resident dies. 62534  
The ~~adult care facility or home~~ or facility shall transfer the 62535  
money even though the owner or operator of the facility or home 62536  
has not been issued letters testamentary or letters of 62537  
administration concerning the resident's estate. 62538

(C) If funeral or burial expenses for a resident of ~~an adult~~ 62539  
~~care facility or a home~~ or residential facility who has died have 62540  
not been paid and the only resource the resident had that could be 62541  
used to pay for the expenses is the money in the resident's 62542  
personal needs allowance account, or all other resources of the 62543  
resident are inadequate to pay the full cost of the expenses, the 62544  
money in the resident's personal needs allowance account shall be 62545  
used to pay for the expenses rather than being transferred to the 62546  
department of job and family services pursuant to division (B) of 62547  
this section. 62548

(D) If, not later than sixty days after a resident of ~~an~~ 62549

~~adult care facility or a home or residential facility~~ dies, 62550  
letters testamentary or letters of administration are issued, or 62551  
an application for release from administration is filed under 62552  
section 2113.03 of the Revised Code, concerning the resident's 62553  
estate, the owner or operator of the ~~facility or home or facility~~ 62554  
shall transfer the money in the resident's personal needs 62555  
allowance account to the administrator, executor, commissioner, or 62556  
person who filed the application for release from administration. 62557

(E) The transfer or use of money in a resident's personal 62558  
needs allowance account in accordance with division (B), (C), or 62559  
(D) of this section discharges and releases the ~~adult care~~ 62560  
~~facility or home or residential facility~~, and the owner or 62561  
operator of the ~~facility or home~~, from any claim for the money 62562  
from any source. 62563

(F) If, sixty-one or more days after a resident of ~~an adult~~ 62564  
~~care facility or a home or residential facility~~ dies, letters 62565  
testamentary or letters of administration are issued, or an 62566  
application for release from administration under section 2113.03 62567  
of the Revised Code is filed, concerning the resident's estate, 62568  
the department of job and family services shall transfer the funds 62569  
to the administrator, executor, commissioner, or person who filed 62570  
the application, unless the department is entitled to recover the 62571  
money under the medicaid estate recovery program instituted under 62572  
section 5111.11 of the Revised Code. 62573

**Sec. 5111.16.** (A) As part of the medicaid program, the 62574  
department of job and family services shall establish a care 62575  
management system. The department shall submit, if necessary, 62576  
applications to the United States department of health and human 62577  
services for waivers of federal medicaid requirements that would 62578  
otherwise be violated in the implementation of the system. 62579

(B) The department shall implement the care management system 62580

in some or all counties and shall designate the medicaid 62581  
recipients who are required or permitted to participate in the 62582  
system. In the department's implementation of the system and 62583  
designation of participants, all of the following apply: 62584

(1) In the case of individuals who receive medicaid on the 62585  
basis of being included in the category identified by the 62586  
department as covered families and children, the department shall 62587  
implement the care management system in all counties. All 62588  
individuals included in the category shall be designated for 62589  
participation, except for individuals included in one or more of 62590  
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 62591  
The department shall ensure that all participants are enrolled in 62592  
health insuring corporations under contract with the department 62593  
pursuant to section 5111.17 of the Revised Code. 62594

(2) In the case of individuals who receive medicaid on the 62595  
basis of being aged, blind, or disabled, as specified in division 62596  
~~(A)~~(C)(2) of section 5111.01 of the Revised Code, the department 62597  
shall implement the care management system in all counties. Except 62598  
as provided in division (C) of this section, all individuals 62599  
included in the category shall be designated for participation. 62600  
The department shall ensure that all participants are enrolled in 62601  
health insuring corporations under contract with the department 62602  
pursuant to section 5111.17 of the Revised Code. 62603

(3) Alcohol, drug addiction, and mental health services 62604  
covered by medicaid shall not be included in any component of the 62605  
care management system when the nonfederal share of the cost of 62606  
those services is provided by a board of alcohol, drug addiction, 62607  
and mental health services or a state agency other than the 62608  
department of job and family services, but the recipients of those 62609  
services may otherwise be designated for participation in the 62610  
system. 62611

(C)(1) In designating participants who receive medicaid on 62612

the basis of being aged, blind, or disabled, the department shall 62613  
not include any of the following, except as provided under 62614  
division (C)(2) of this section: 62615

(a) Individuals who are under twenty-one years of age; 62616

(b) Individuals who are institutionalized; 62617

(c) Individuals who become eligible for medicaid by spending 62618  
down their income or resources to a level that meets the medicaid 62619  
program's financial eligibility requirements; 62620

(d) Individuals who are dually eligible under the medicaid 62621  
program and the medicare program established under Title XVIII of 62622  
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 62623  
amended; 62624

(e) Individuals to the extent that they are receiving 62625  
medicaid services through a medicaid waiver component, as defined 62626  
in section 5111.85 of the Revised Code. 62627

(2) If any necessary waiver of federal medicaid requirements 62628  
is granted, the department may designate any of the following 62629  
individuals who receive medicaid on the basis of being aged, 62630  
blind, or disabled as individuals who are permitted or required to 62631  
participate in the care management system: 62632

(a) Individuals who are under twenty-one years of age; 62633

(b) Individuals who reside in a nursing facility, as defined 62634  
in section 5111.20 of the Revised Code; 62635

(c) Individuals who, as an alternative to receiving nursing 62636  
facility services, are participating in a home and community-based 62637  
services medicaid waiver component, as defined in section 5111.85 62638  
of the Revised Code; 62639

(d) Individuals who are dually eligible under the medicaid 62640  
program and the medicare program. 62641

(D) Subject to division (B) of this section, the department 62642

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| may do both of the following under the care management system:  | 62643                            |
| (1) Require or permit participants in the system to obtain health care services from providers designated by the department;  | 62644<br>62645                   |
| (2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.    | 62646<br>62647<br>62648<br>62649 |
| (E)(1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components: | 62650<br>62651<br>62652<br>62653 |
| (a) The required designation of participants included in the category identified by the department as covered families and children;  | 62654<br>62655<br>62656          |
| (b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;  | 62657<br>62658                   |
| (c) The use of any programs for enhanced care management.   | 62659                            |
| (2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.   | 62660<br>62661<br>62662          |
| (F) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.  | 62663<br>62664<br>62665          |
| <b>Sec. 5111.161.</b> (A) As used in this section:  | 62666                            |
| (1) "Children's care network" means any of the following:   | 62667                            |
| (a) A children's hospital;  | 62668                            |
| (b) A group of children's hospitals;  | 62669                            |
| (c) A group of pediatric physicians+.   | 62670                            |

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

(B) If the department of job and family services includes in the care management system, pursuant to section 5111.16 of the Revised Code, individuals under twenty-one years of age included in the category of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division ~~(A)~~(C)(2) of section 5111.01 of the Revised Code, the department shall develop a system to recognize entities as pediatric accountable care organizations. The purpose of the recognition system shall be to meet the complex medical and behavioral needs of disabled children through new approaches to care coordination. The department shall implement the recognition system not later than July 1, 2012.

An entity recognized by the department as a pediatric accountable care organization may develop innovative partnerships between relevant groups and may contract directly or subcontract with the state to provide services to the medicaid recipients under twenty-one years of age described in this division who are permitted or required to participate in the care management system.

(C)(1) To be recognized by the department as a pediatric accountable care organization, an entity shall meet the standards established in rules adopted under this section. Unless required by sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj, the regulations adopted pursuant to those sections, and the laws of this state, the department shall not require that an entity be a health insuring corporation as a condition of receiving the department's recognition.

(2) Any of the following entities may receive the

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| department's recognition, if the standards for recognition have    | 62703 |
| been met:  | 62704 |
| (a) A children's care network;                                     | 62705 |
| (b) A children's care network that may include one or more         | 62706 |
| other entities, including, but not limited to, health insuring     | 62707 |
| corporations or other managed care organizations;                  | 62708 |
| (c) Any other entity the department determines is qualified.       | 62709 |
| (D) The department shall consult with all of the following in      | 62710 |
| adopting rules under division (E) of this section necessary for an | 62711 |
| entity to be recognized by the department as a pediatric           | 62712 |
| accountable care organization:                                     | 62713 |
| (1) The superintendent of insurance;                               | 62714 |
| (2) Children's hospitals;  | 62715 |
| (3) Managed care organizations under contract pursuant to          | 62716 |
| section 5111.17 of the Revised Code;                               | 62717 |
| (4) Any other relevant entities, as determined necessary by        | 62718 |
| the department, with interests in pediatric accountable care       | 62719 |
| organizations.   | 62720 |
| (E) The department shall adopt rules in accordance with            | 62721 |
| Chapter 119. of the Revised Code as necessary to implement this    | 62722 |
| section. In adopting the rules, the department shall do all of the | 62723 |
| following:   | 62724 |
| (1) Establish application procedures to be followed by an          | 62725 |
| entity seeking recognition as a pediatric accountable care         | 62726 |
| organization;  | 62727 |
| (2) Ensure that the standards for recognition as a pediatric       | 62728 |
| accountable care organization are the same as and do not conflict  | 62729 |
| with those specified in sections 2706 and 3022 of the "Patient     | 62730 |
| Protection and Affordable Care Act," 124 Stat. 325 (2010) and      | 62731 |
| Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 | 62732 |

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| U.S.C. 1395jjj or the regulations adopted pursuant to those sections;  | 62733<br>62734  |
| (3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization;  | 62735<br>62736<br>62737   |
| (4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization;   | 62738<br>62739  |
| (5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department;   | 62740<br>62741  |
| (6) Establish transparency and consumer protection requirements for an entity recognized as a pediatric accountable care organization;   | 62742<br>62743<br>62744   |
| (7) Establish a process for sharing data.  | 62745   |
| (F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state.  | 62746<br>62747<br>62748   |
| <b>Sec. 5111.171.</b> <del>(A)</del> The department of job and family services may provide financial incentive awards to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet or exceed performance standards specified in provider agreements or rules adopted by the department. The department may specify in a contract with a managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the department. | 62749<br>62750<br>62751<br>62752<br>62753<br>62754<br>62755<br>62756<br>62757 |
| <del>(B) There is hereby created in the state treasury the health care compliance fund. The fund shall consist of all fines imposed on and collected from managed care organizations for failure to meet performance standards or other requirements specified in provider agreements or rules adopted by the department. All</del>  | 62758<br>62759<br>62760<br>62761<br>62762                                     |

~~investment earnings of the fund shall be credited to the fund.~~ 62763

~~Moneys credited to the fund shall be used solely for the following~~ 62764

~~purposes:~~ 62765

~~(1) To reimburse managed care organizations that have paid~~ 62766

~~finances for failures to meet performance standards or other~~ 62767

~~requirements and that have come into compliance by meeting~~ 62768

~~requirements as specified by the department;~~ 62769

~~(2) To provide financial incentive awards established~~ 62770

~~pursuant to division (A) of this section and specified in~~ 62771

~~contracts between managed care organizations and the department.~~ 62772

**Sec. 5111.20.** As used in sections 5111.20 to 5111.331 of the 62773

Revised Code: 62774

(A) "Allowable costs" are those costs determined by the 62775

department of job and family services to be reasonable and do not 62776

include fines paid under sections 5111.35 to 5111.61 and section 62777

5111.99 of the Revised Code. 62778

(B) "Ancillary and support costs" means all reasonable costs 62779

incurred by a nursing facility other than direct care costs, tax 62780

costs, or capital costs. "Ancillary and support costs" includes, 62781

but is not limited to, costs of activities, social services, 62782

pharmacy consultants, habilitation supervisors, qualified mental 62783

retardation professionals, program directors, medical and 62784

habilitation records, program supplies, incontinence supplies, 62785

food, enterals, dietary supplies and personnel, laundry, 62786

housekeeping, security, administration, medical equipment, 62787

utilities, liability insurance, bookkeeping, purchasing 62788

department, human resources, communications, travel, dues, license 62789

fees, subscriptions, home office costs not otherwise allocated, 62790

legal services, accounting services, minor equipment, ~~wheelchairs,~~ 62791

~~resident transportation,~~ maintenance and repairs, help-wanted 62792

advertising, informational advertising, start-up costs, 62793

organizational expenses, other interest, property insurance, 62794  
employee training and staff development, employee benefits, 62795  
payroll taxes, and workers' compensation premiums or costs for 62796  
self-insurance claims and related costs as specified in rules 62797  
adopted by the director of job and family services under section 62798  
5111.02 of the Revised Code, for personnel listed in this 62799  
division. "Ancillary and support costs" also means the cost of 62800  
equipment, including vehicles, acquired by operating lease 62801  
executed before December 1, 1992, if the costs are reported as 62802  
administrative and general costs on the facility's cost report for 62803  
the cost reporting period ending December 31, 1992. 62804

(C) "Capital costs" means costs of ownership and, in the case 62805  
of an intermediate care facility for the mentally retarded, costs 62806  
of nonextensive renovation. 62807

(1) "Cost of ownership" means the actual expense incurred for 62808  
all of the following: 62809

(a) Depreciation and interest on any capital assets that cost 62810  
five hundred dollars or more per item, including the following: 62811

(i) Buildings; 62812

(ii) Building improvements that are not approved as 62813  
nonextensive renovations under section 5111.251 of the Revised 62814  
Code; 62815

(iii) Except as provided in division (B) of this section, 62816  
equipment; 62817

(iv) In the case of an intermediate care facility for the 62818  
mentally retarded, extensive renovations; 62819

(v) Transportation equipment. 62820

(b) Amortization and interest on land improvements and 62821  
leasehold improvements; 62822

(c) Amortization of financing costs; 62823

(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment. 62824  
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The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice. 62826  
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(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations. 62829  
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(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles. 62833  
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(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded. 62835  
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(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section. 62840  
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If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date 62850  
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the beds first were used to provide nursing home or residential 62855  
facility services, regardless of the date the present provider 62856  
obtained licensure. 62857

If a facility adds nursing home beds or residential facility 62858  
beds or extensively renovates all or part of the facility after 62859  
its original date of licensure, it will have a different date of 62860  
licensure for the additional beds or extensively renovated portion 62861  
of the facility, unless the beds are added in a space that was 62862  
constructed at the same time as the previously licensed beds but 62863  
was not licensed under Chapter 3721. or section 5123.19 of the 62864  
Revised Code at that time. 62865

(2) The definition of "date of licensure" in this section 62866  
applies in determinations of the medicaid reimbursement rate for a 62867  
nursing facility or intermediate care facility for the mentally 62868  
retarded but does not apply in determinations of the franchise 62869  
permit fee for a nursing facility or intermediate care facility 62870  
for the mentally retarded. 62871

(G) "Desk-reviewed" means that costs as reported on a cost 62872  
report submitted under section 5111.26 of the Revised Code have 62873  
been subjected to a desk review under division (A) of section 62874  
5111.27 of the Revised Code and preliminarily determined to be 62875  
allowable costs. 62876

(H) "Direct care costs" means all of the following: 62877

(1)(a) Costs for registered nurses, licensed practical 62878  
nurses, and nurse aides employed by the facility; 62879

(b) Costs for direct care staff, administrative nursing 62880  
staff, medical directors, respiratory therapists, and except as 62881  
provided in division (H)(2) of this section, other persons holding 62882  
degrees qualifying them to provide therapy; 62883

(c) Costs of purchased nursing services; 62884

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| (d) Costs of quality assurance;  | 62885   |
| (e) 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 by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (H)(1)(a), (b), and (d) of this section;  | 62886<br>62887<br>62888<br>62889<br>62890<br>62891                            |
| (f) Costs of consulting and management fees related to direct care;  | 62892<br>62893  |
| (g) Allocated direct care home office costs.   | 62894   |
| (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. | 62895<br>62896<br>62897<br>62898<br>62899<br>62900<br>62901<br>62902<br>62903 |
| (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:   | 62904<br>62905<br>62906   |
| (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;  | 62907<br>62908<br>62909<br>62910<br>62911<br>62912<br>62913                   |
| (b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or   | 62914<br>62915  |

costs for self-insurance claims and related costs as specified in 62916  
rules adopted under section 5111.02 of the Revised Code, for 62917  
personnel listed in division (H)(3)(a) of this section. 62918

(4) Costs of other direct-care resources that are specified 62919  
as direct care costs in rules adopted under section 5111.02 of the 62920  
Revised Code. 62921

(I) "Fiscal year" means the fiscal year of this state, as 62922  
specified in section 9.34 of the Revised Code. 62923

(J) "Franchise permit fee" means the following: 62924

(1) In the context of nursing facilities, the fee imposed by 62925  
sections 3721.50 to 3721.58 of the Revised Code; 62926

(2) In the context of intermediate care facilities for the 62927  
mentally retarded, the fee imposed by sections 5112.30 to 5112.39 62928  
of the Revised Code. 62929

(K) "Indirect care costs" means all reasonable costs incurred 62930  
by an intermediate care facility for the mentally retarded other 62931  
than direct care costs, other protected costs, or capital costs. 62932  
"Indirect care costs" includes but is not limited to costs of 62933  
habilitation supplies, pharmacy consultants, medical and 62934  
habilitation records, program supplies, incontinence supplies, 62935  
food, enterals, dietary supplies and personnel, laundry, 62936  
housekeeping, security, administration, liability insurance, 62937  
bookkeeping, purchasing department, human resources, 62938  
communications, travel, dues, license fees, subscriptions, home 62939  
office costs not otherwise allocated, legal services, accounting 62940  
services, minor equipment, maintenance and repairs, help-wanted 62941  
advertising, informational advertising, start-up costs, 62942  
organizational expenses, other interest, property insurance, 62943  
employee training and staff development, employee benefits, 62944  
payroll taxes, and workers' compensation premiums or costs for 62945  
self-insurance claims and related costs as specified in rules 62946

adopted under section 5111.02 of the Revised Code, for personnel 62947  
listed in this division. Notwithstanding division (C)(1) of this 62948  
section, "indirect care costs" also means the cost of equipment, 62949  
including vehicles, acquired by operating lease executed before 62950  
December 1, 1992, if the costs are reported as administrative and 62951  
general costs on the facility's cost report for the cost reporting 62952  
period ending December 31, 1992. 62953

(L) "Inpatient days" means ~~all~~ the following: 62954

(1) In the context of a nursing facility, both of the 62955  
following: 62956

(a) All days during which a resident, regardless of payment 62957  
source, occupies a bed in a nursing facility ~~or intermediate care~~ 62958  
~~facility for the mentally retarded~~ that is included in the nursing 62959  
facility's certified capacity under Title XIX. ~~Therapeutic or~~ 62960  
~~hospital leave;~~ 62961

(b) Fifty per cent of the days for which payment is made 62962  
under section ~~5111.33 or~~ 5111.331 of the Revised Code ~~are~~ 62963  
~~considered inpatient days proportionate to the percentage of the~~ 62964  
~~facility's per resident per day rate paid for those days.~~ 62965

(2) In the context of an intermediate care facility for the 62966  
mentally retarded, both of the following: 62967

(a) All days during which a resident, regardless of payment 62968  
source, occupies a bed in an intermediate care facility for the 62969  
mentally retarded that is included in the facility's certified 62970  
capacity under Title XIX; 62971

(b) All days for which payment is made under section 5111.33 62972  
of the Revised Code. 62973

(M) "Intermediate care facility for the mentally retarded" 62974  
means an intermediate care facility for the mentally retarded 62975  
certified as in compliance with applicable standards for the 62976

medicaid program by the director of health in accordance with 62977  
Title XIX. 62978

(N) "Maintenance and repair expenses" means, except as 62979  
provided in division (BB)(2) of this section, expenditures that 62980  
are necessary and proper to maintain an asset in a normally 62981  
efficient working condition and that do not extend the useful life 62982  
of the asset two years or more. "Maintenance and repair expenses" 62983  
includes but is not limited to the cost of ordinary repairs such 62984  
as painting and wallpapering. 62985

(O) "Medicaid days" means ~~all~~ the following: 62986

(1) In the context of a nursing facility, both of the 62987  
following: 62988

(a) All days during which a resident who is a medicaid 62989  
recipient eligible for nursing facility services occupies a bed in 62990  
a nursing facility that is included in the nursing facility's 62991  
certified capacity under Title XIX. ~~Therapeutic or hospital leave;~~ 62992

(b) Fifty per cent of the days for which payment is made 62993  
under section ~~5111.33~~ or 5111.331 of the Revised Code ~~are~~ 62994  
~~considered medicaid days proportionate to the percentage of the~~ 62995  
~~nursing facility's per resident per day rate paid for those days.~~ 62996

(2) In the context of an intermediate care facility for the 62997  
mentally retarded, both of the following: 62998

(a) All days during which a resident who is a medicaid 62999  
recipient eligible for intermediate care facility for the mentally 63000  
retarded services occupies a bed in an intermediate care facility 63001  
for the mentally retarded that is included in the facility's 63002  
certified capacity under Title XIX; 63003

(b) All days for which payment is made under section 5111.33 63004  
of the Revised Code. 63005

(P) "Nursing facility" means a facility, or a distinct part 63006

of a facility, that is certified as a nursing facility by the 63007  
director of health in accordance with Title XIX and is not an 63008  
intermediate care facility for the mentally retarded. "Nursing 63009  
facility" includes a facility, or a distinct part of a facility, 63010  
that is certified as a nursing facility by the director of health 63011  
in accordance with Title XIX and is certified as a skilled nursing 63012  
facility by the director in accordance with Title XVIII. 63013

(Q) "Operator" means the person or government entity 63014  
responsible for the daily operating and management decisions for a 63015  
nursing facility or intermediate care facility for the mentally 63016  
retarded. 63017

(R) "Other protected costs" means costs incurred by an 63018  
intermediate care facility for the mentally retarded for medical 63019  
supplies; real estate, franchise, and property taxes; natural gas, 63020  
fuel oil, water, electricity, sewage, and refuse and hazardous 63021  
medical waste collection; allocated other protected home office 63022  
costs; and any additional costs defined as other protected costs 63023  
in rules adopted under section 5111.02 of the Revised Code. 63024

(S)(1) "Owner" means any person or government entity that has 63025  
at least five per cent ownership or interest, either directly, 63026  
indirectly, or in any combination, in any of the following 63027  
regarding a nursing facility or intermediate care facility for the 63028  
mentally retarded: 63029

(a) The land on which the facility is located; 63030

(b) The structure in which the facility is located; 63031

(c) Any mortgage, contract for deed, or other obligation 63032  
secured in whole or in part by the land or structure on or in 63033  
which the facility is located; 63034

(d) Any lease or sublease of the land or structure on or in 63035  
which the facility is located. 63036

(2) "Owner" does not mean a holder of a debenture or bond 63037  
related to the nursing facility or intermediate care facility for 63038  
the mentally retarded and purchased at public issue or a regulated 63039  
lender that has made a loan related to the facility unless the 63040  
holder or lender operates the facility directly or through a 63041  
subsidiary. 63042

(T) "Patient" includes "resident." 63043

(U) Except as provided in divisions (U)(1) and (2) of this 63044  
section, "per diem" means a nursing facility's or intermediate 63045  
care facility for the mentally retarded's actual, allowable costs 63046  
in a given cost center in a cost reporting period, divided by the 63047  
facility's inpatient days for that cost reporting period. 63048

(1) When calculating indirect care costs for the purpose of 63049  
establishing rates under section 5111.241 of the Revised Code, 63050  
"per diem" means an intermediate care facility for the mentally 63051  
retarded's actual, allowable indirect care costs in a cost 63052  
reporting period divided by the greater of the facility's 63053  
inpatient days for that period or the number of inpatient days the 63054  
facility would have had during that period if its occupancy rate 63055  
had been eighty-five per cent. 63056

(2) When calculating capital costs for the purpose of 63057  
establishing rates under section 5111.251 of the Revised Code, 63058  
"per diem" means a facility's actual, allowable capital costs in a 63059  
cost reporting period divided by the greater of the facility's 63060  
inpatient days for that period or the number of inpatient days the 63061  
facility would have had during that period if its occupancy rate 63062  
had been ninety-five per cent. 63063

(V) "Provider" means an operator with a provider agreement. 63064

(W) "Provider agreement" means a contract between the 63065  
department of job and family services and the operator of a 63066  
nursing facility or intermediate care facility for the mentally 63067

retarded for the provision of nursing facility services or 63068  
intermediate care facility services for the mentally retarded 63069  
under the medicaid program. 63070

(X) "Purchased nursing services" means services that are 63071  
provided in a nursing facility by registered nurses, licensed 63072  
practical nurses, or nurse aides who are not employees of the 63073  
facility. 63074

(Y) "Reasonable" means that a cost is an actual cost that is 63075  
appropriate and helpful to develop and maintain the operation of 63076  
patient care facilities and activities, including normal standby 63077  
costs, and that does not exceed what a prudent buyer pays for a 63078  
given item or services. Reasonable costs may vary from provider to 63079  
provider and from time to time for the same provider. 63080

(Z) "Related party" means an individual or organization that, 63081  
to a significant extent, has common ownership with, is associated 63082  
or affiliated with, has control of, or is controlled by, the 63083  
provider. 63084

(1) An individual who is a relative of an owner is a related 63085  
party. 63086

(2) Common ownership exists when an individual or individuals 63087  
possess significant ownership or equity in both the provider and 63088  
the other organization. Significant ownership or equity exists 63089  
when an individual or individuals possess five per cent ownership 63090  
or equity in both the provider and a supplier. Significant 63091  
ownership or equity is presumed to exist when an individual or 63092  
individuals possess ten per cent ownership or equity in both the 63093  
provider and another organization from which the provider 63094  
purchases or leases real property. 63095

(3) Control exists when an individual or organization has the 63096  
power, directly or indirectly, to significantly influence or 63097  
direct the actions or policies of an organization. 63098

|  |   |
|--|---|
| (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:  | 63099<br>63100<br>63101                   |
| (a) The supplier is a separate bona fide organization.   | 63102                                     |
| (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.                                | 63103<br>63104<br>63105<br>63106          |
| (c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities. | 63107<br>63108<br>63109<br>63110<br>63111 |
| (d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.  | 63112<br>63113<br>63114<br>63115          |
| (AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:   | 63116<br>63117<br>63118                   |
| (1) Spouse;  | 63119                                     |
| (2) Natural parent, child, or sibling;   | 63120                                     |
| (3) Adopted parent, child, or sibling;   | 63121                                     |
| (4) Stepparent, stepchild, stepbrother, or stepsister;   | 63122                                     |
| (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;   | 63123<br>63124                            |
| (6) Grandparent or grandchild;   | 63125                                     |
| (7) Foster caregiver, foster child, foster brother, or foster sister.  | 63126<br>63127                            |

(BB) "Renovation" and "extensive renovation" mean: 63128

(1) Any betterment, improvement, or restoration of an 63129  
intermediate care facility for the mentally retarded started 63130  
before July 1, 1993, that meets the definition of a renovation or 63131  
extensive renovation established in rules adopted by the director 63132  
of job and family services in effect on December 22, 1992. 63133

(2) In the case of betterments, improvements, and 63134  
restorations of intermediate care facilities for the mentally 63135  
retarded started on or after July 1, 1993: 63136

(a) "Renovation" means the betterment, improvement, or 63137  
restoration of an intermediate care facility for the mentally 63138  
retarded beyond its current functional capacity through a 63139  
structural change that costs at least five hundred dollars per 63140  
bed. A renovation may include betterment, improvement, 63141  
restoration, or replacement of assets that are affixed to the 63142  
building and have a useful life of at least five years. A 63143  
renovation may include costs that otherwise would be considered 63144  
maintenance and repair expenses if they are an integral part of 63145  
the structural change that makes up the renovation project. 63146  
"Renovation" does not mean construction of additional space for 63147  
beds that will be added to a facility's licensed or certified 63148  
capacity. 63149

(b) "Extensive renovation" means a renovation that costs more 63150  
than sixty-five per cent and no more than eighty-five per cent of 63151  
the cost of constructing a new bed and that extends the useful 63152  
life of the assets for at least ten years. 63153

For the purposes of division (BB)(2) of this section, the 63154  
cost of constructing a new bed shall be considered to be forty 63155  
thousand dollars, adjusted for the estimated rate of inflation 63156  
from January 1, 1993, to the end of the calendar year during which 63157  
the renovation is completed, using the consumer price index for 63158

shelter costs for all urban consumers for the north central 63159  
region, as published by the United States bureau of labor 63160  
statistics. 63161

The department of job and family services may treat a 63162  
renovation that costs more than eighty-five per cent of the cost 63163  
of constructing new beds as an extensive renovation if the 63164  
department determines that the renovation is more prudent than 63165  
construction of new beds. 63166

(CC) "Tax costs" means the costs of taxes imposed under 63167  
Chapter 5751. of the Revised Code, real estate taxes, personal 63168  
property taxes, and corporate franchise taxes. 63169

(DD) "Title XIX" means Title XIX of the "Social Security 63170  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 63171

~~(DD)~~(EE) "Title XVIII" means Title XVIII of the "Social 63172  
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 63173

**Sec. 5111.222.** (A) Except as otherwise provided by sections 63174  
5111.20 to 5111.331 of the Revised Code and by division (B) of 63175  
this section, the total rate that the department of job and family 63176  
services shall agree to pay for a fiscal year to the provider of a 63177  
nursing facility pursuant to a provider agreement shall equal the 63178  
sum of all of the following: 63179

(1) The rate for direct care costs determined for the nursing 63180  
facility under section 5111.231 of the Revised Code; 63181

(2) The rate for ancillary and support costs determined for 63182  
the nursing facility's ancillary and support cost peer group under 63183  
section 5111.24 of the Revised Code; 63184

(3) The rate for tax costs determined for the nursing 63185  
facility under section 5111.242 of the Revised Code; 63186

(4) The quality incentive payment paid to the nursing 63187  
facility under section 5111.244 of the Revised Code; 63188

(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: 63189  
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(6) The rate for capital costs determined for the nursing facility's capital costs peer group under section 5111.25 of the Revised Code. 63192  
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(B) The department shall adjust the rates otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that establishes factors by which the rates are to be adjusted. 63195  
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(C) In addition to paying a nursing facility provider the total rate determined for the nursing facility under division (A) of this section for a fiscal year, the department shall pay the provider a quality bonus under section 5111.245 of the Revised Code for that fiscal year if the provider's nursing facility is a qualifying nursing facility, as defined in that section, for that fiscal year. The quality bonus shall not be part of the total rate. 63200  
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**Sec. 5111.23.** (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly. 63208  
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(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following: 63214  
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(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.232 of the Revised Code for the same calendar year.

(2)(a) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid ~~inpatient~~ day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (E)(2) of this section.

(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid ~~inpatient~~ day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (E)(3) of this section.

(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) and (b) of this section for each peer group, the department shall exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month

period beginning on the first day of July of the calendar year 63252  
preceding the fiscal year in which the rate will be paid and 63253  
ending on the thirty-first day of December of the fiscal year in 63254  
which the rate will be paid, using the index specified in division 63255  
(C) of this section. If the estimated inflation rate for the 63256  
eighteen-month period is different from the actual inflation rate 63257  
for that period, as measured using the same index, the difference 63258  
shall be added to or subtracted from the inflation rate estimated 63259  
under division (B)(3) of this section for the following fiscal 63260  
year. 63261

(4) The department shall not recalculate a maximum cost per 63262  
case-mix unit under division (B)(2) of this section or a 63263  
percentage under division (E) of this section based on additional 63264  
information that it receives after the maximum costs per case-mix 63265  
unit or percentages are set. The department shall recalculate a 63266  
maximum cost per case-mix units or percentage only if it made an 63267  
error in computing the maximum cost per case-mix unit or 63268  
percentage based on information available at the time of the 63269  
original calculation. 63270

(C) The department shall use the following index for the 63271  
purpose of division (B)(3) of this section: 63272

(1) The employment cost index for total compensation, health 63273  
services component, published by the United States bureau of labor 63274  
statistics; 63275

(2) If the United States bureau of labor statistics ceases to 63276  
publish the index specified in division (C)(1) of this section, 63277  
the index that is subsequently published by the bureau and covers 63278  
nursing facilities' staff costs. 63279

(D) Each facility's rate for direct care costs shall be 63280  
determined as follows for each calendar quarter within a fiscal 63281  
year: 63282

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (D)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

(E)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid ~~inpatient~~ day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid ~~inpatient~~ days for such facilities for calendar year 1992.

(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid ~~inpatient~~ day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid ~~inpatient~~ days for such facilities for calendar year 1992.

(F) The director of job and family services shall adopt rules

under section 5111.02 of the Revised Code that specify peer groups 63314  
of intermediate care facilities for the mentally retarded with 63315  
more than eight beds and intermediate care facilities for the 63316  
mentally retarded with eight or fewer beds, based on findings of 63317  
significant per diem direct care cost differences due to geography 63318  
and facility bed-size. The rules also may specify peer groups 63319  
based on findings of significant per diem direct care cost 63320  
differences due to other factors which may include case-mix. 63321

(G) The department, in accordance with division (D) of 63322  
section 5111.232 of the Revised Code and rules adopted under 63323  
division (F) of that section, may assign case-mix scores or costs 63324  
per case-mix unit if a provider fails to submit assessment data 63325  
necessary to calculate an intermediate care facility for the 63326  
mentally retarded's case-mix score in accordance with that 63327  
section. 63328

**Sec. 5111.242.** (A) As used in this section+ 63329

~~(1) "Applicable, "applicable~~ calendar year" means the 63330  
following: 63331

~~(a)(1)~~ For the purpose of the department of job and family 63332  
services' initial determination under this section of nursing 63333  
facilities' rate for tax costs, calendar year 2003; 63334

~~(b)(2)~~ For the purpose of the department's subsequent 63335  
determinations under division (C) of this section of nursing 63336  
facilities' rate for tax costs, the calendar year the department 63337  
selects. 63338

~~(2) "Tax costs" means the costs of taxes imposed under 63339  
Chapter 5751. of the Revised Code, real estate taxes, personal 63340  
property taxes, and corporate franchise taxes. 63341~~

(B) The department of job and family services shall pay a 63342  
provider for each of the provider's eligible nursing facilities a 63343

per resident per day rate for tax costs determined under division 63344  
(C) of this section. 63345

(C) At least once every ten years, the department shall 63346  
determine the rate for tax costs for each nursing facility. The 63347  
rate for tax costs determined under this division for a nursing 63348  
facility shall be used for subsequent years until the department 63349  
redetermines it. To determine a nursing facility's rate for tax 63350  
costs and except as provided in division (D) of this section, the 63351  
department shall divide the nursing facility's desk-reviewed, 63352  
actual, allowable tax costs paid for the applicable calendar year 63353  
by the number of inpatient days the nursing facility would have 63354  
had if its occupancy rate had been one hundred per cent during the 63355  
applicable calendar year. 63356

(D) If a nursing facility had a credit regarding its real 63357  
estate taxes reflected on its cost report for calendar year 2003, 63358  
the department shall determine its rate for tax costs for the 63359  
period beginning on July 1, 2010, and ending on the first day of 63360  
the fiscal year for which the department first redetermines all 63361  
nursing facilities' rate for tax costs under division (C) of this 63362  
section by dividing the nursing facility's desk-reviewed, actual, 63363  
allowable tax costs paid for calendar year 2004 by the number of 63364  
inpatient days the nursing facility would have had if its 63365  
occupancy rate had been one hundred per cent during calendar year 63366  
2004. 63367

Sec. 5111.246. (A) Each fiscal year, the department of job 63368  
and family services shall pay a critical access incentive payment 63369  
to the provider of each nursing facility that qualifies as a 63370  
critical access nursing facility. To qualify as a critical access 63371  
nursing facility for a fiscal year, a nursing facility must meet 63372  
all of the following requirements: 63373

(1) The nursing facility must be located in an area that, on 63374

December 31, 2011, was designated an empowerment zone under 63375  
section 1391 of the "Internal Revenue Code of 1986," 107 Stat. 63376  
543, 26 U.S.C. 1391, as amended. 63377

(2) The nursing facility must have an occupancy rate of at 63378  
least eighty-five per cent as of the last day of the calendar year 63379  
preceding the fiscal year. 63380

(3) The nursing facility must have a medicaid utilization 63381  
rate of at least sixty-five per cent as of the last day of the 63382  
calendar year preceding the fiscal year. 63383

(B) A critical access nursing facility's critical access 63384  
incentive payment for a fiscal year shall equal five per cent of 63385  
the portion of the nursing facility's total rate for the fiscal 63386  
year that is the sum of the rates and payment identified in 63387  
divisions (A)(1) to (4) and (6) of section 5111.222 of the Revised 63388  
Code. 63389

**Sec. 5111.254.** (A) The department of job and family services 63390  
shall establish initial rates for a nursing facility with a first 63391  
date of licensure that is on or after July 1, 2006, including a 63392  
facility that replaces one or more existing facilities, or for a 63393  
nursing facility with a first date of licensure before that date 63394  
that was initially certified for the medicaid program on or after 63395  
that date, in the following manner: 63396

(1) The rate for direct care costs shall be the product of 63397  
the cost per case-mix unit determined under division (D) of 63398  
section 5111.231 of the Revised Code for the facility's peer group 63399  
and the nursing facility's case-mix score. For the purpose of 63400  
division (A)(1) of this section, the nursing facility's case-mix 63401  
score shall be the following: 63402

(a) Unless the nursing facility replaces an existing nursing 63403  
facility that participated in the medicaid program immediately 63404

before the replacement nursing facility begins participating in 63405  
the medicaid program, the median annual average case-mix score for 63406  
the nursing facility's peer group; 63407

(b) If the nursing facility replaces an existing nursing 63408  
facility that participated in the medicaid program immediately 63409  
before the replacement nursing facility begins participating in 63410  
the medicaid program, the semiannual case-mix score most recently 63411  
determined under section 5111.232 of the Revised Code for the 63412  
replaced nursing facility as adjusted, if necessary, to reflect 63413  
any difference in the number of beds in the replaced and 63414  
replacement nursing facilities. 63415

(2) The rate for ancillary and support costs shall be the 63416  
rate for the facility's peer group determined under division (D) 63417  
of section 5111.24 of the Revised Code. 63418

(3) The rate for capital costs shall be the rate for the 63419  
facility's peer group determined under division (D) of section 63420  
5111.25 of the Revised Code. 63421

(4) The rate for tax costs ~~as defined in section 5111.242 of~~ 63422  
~~the Revised Code~~ shall be the median rate for tax costs for the 63423  
facility's peer group in which the facility is placed under 63424  
division (C) of section 5111.24 of the Revised Code. 63425

(5) The quality incentive payment shall be the mean payment 63426  
made to nursing facilities under section 5111.244 of the Revised 63427  
Code. 63428

(B) Subject to division (C) of this section, the department 63429  
shall adjust the rates established under division (A) of this 63430  
section effective the first day of July, to reflect new rate 63431  
calculations for all nursing facilities under sections 5111.20 to 63432  
5111.331 of the Revised Code. 63433

(C) If a rate for direct care costs is determined under this 63434  
section for a nursing facility using the median annual average 63435

case-mix score for the nursing facility's peer group, the rate 63436  
shall be redetermined to reflect the replacement nursing 63437  
facility's actual semiannual case-mix score determined under 63438  
section 5111.232 of the Revised Code after the nursing facility 63439  
submits its first two quarterly assessment data that qualify for 63440  
use in calculating a case-mix score in accordance with rules 63441  
authorized by division (E) of section 5111.232 of the Revised 63442  
Code. If the nursing facility's quarterly submissions do not 63443  
qualify for use in calculating a case-mix score, the department 63444  
shall continue to use the median annual average case-mix score for 63445  
the nursing facility's peer group in lieu of the nursing 63446  
facility's semiannual case-mix score until the nursing facility 63447  
submits two consecutive quarterly assessment data that qualify for 63448  
use in calculating a case-mix score. 63449

**Sec. 5111.862.** (A) As used in this section: 63450

"Hospital long-term care unit" has the same meaning as in 63451  
section 3721.50 of the Revised Code. 63452

"Nursing facility" has the same meaning as in section 5111.20 63453  
of the Revised Code. 63454

"Ohio home care program" means the medicaid waiver component 63455  
created under section 5111.861 of the Revised Code. 63456

"Residential treatment facility" means a residential facility 63457  
licensed by the department of mental health under section 5119.22 63458  
of the Revised Code, or an institution certified by the department 63459  
of job and family services under section 5103.03 of the Revised 63460  
Code, that serves children and either has more than sixteen beds 63461  
or is part of a campus of multiple facilities or institutions 63462  
that, combined, have a total of more than sixteen beds. 63463

(B) Subject to division (C) of section 5111.861 of the 63464  
Revised Code, the department of job and family services shall 63465

establish a home first component for the Ohio home care program. 63466  
An individual is eligible for the Ohio home care program's home 63467  
first component if the individual has been determined to be 63468  
eligible for the Ohio home care program and at least one of the 63469  
following applies: 63470

(1) If the individual is under twenty-one years of age, the 63471  
individual received inpatient hospital services for at least 63472  
fourteen consecutive days, or had at least three inpatient 63473  
hospital stays during the twelve months, immediately preceding the 63474  
date the individual applies for the Ohio home care program. 63475

(2) If the individual is at least twenty-one but less than 63476  
sixty years of age, the individual received inpatient hospital 63477  
services for at least fourteen consecutive days immediately 63478  
preceding the date the individual applies for the Ohio home care 63479  
program. 63480

(3) The individual received private duty nursing services 63481  
under the medicaid program for at least twelve consecutive months 63482  
immediately preceding the date the individual applies for the Ohio 63483  
home care program. 63484

(4) The individual does not reside in a nursing facility or 63485  
hospital long-term care unit at the time the individual applies 63486  
for the Ohio home care program but is at risk of imminent 63487  
admission to a nursing facility or hospital long-term care unit 63488  
due to a documented loss of a primary caregiver. 63489

(5) The individual resides in a nursing facility at the time 63490  
the individual applies for the Ohio home care program. 63491

(6) At the time the individual applies for the Ohio home care 63492  
program, the individual participates in the money follows the 63493  
person demonstration project authorized by section 6071 of the 63494  
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 63495  
and either resides in a residential treatment facility or 63496

inpatient hospital setting. 63497

(C) An individual determined to be eligible for the home 63498  
first component of the Ohio home care program shall be enrolled in 63499  
the Ohio home care program in accordance with rules adopted under 63500  
section 5111.85 of the Revised Code. 63501

**Sec. 5111.874.** (A) As used in sections 5111.874 to 5111.8710 63502  
of the Revised Code: 63503

"Home and community-based services" has the same meaning as 63504  
in section 5123.01 of the Revised Code. 63505

"ICF/MR services" means intermediate care facility for the 63506  
mentally retarded services covered by the medicaid program that an 63507  
intermediate care facility for the mentally retarded provides to a 63508  
resident of the facility who is a medicaid recipient eligible for 63509  
medicaid-covered intermediate care facility for the mentally 63510  
retarded services. 63511

"Intermediate care facility for the mentally retarded" means 63512  
an intermediate care facility for the mentally retarded that is 63513  
certified as in compliance with applicable standards for the 63514  
medicaid program by the director of health in accordance with 63515  
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 63516  
U.S.C. 1396, as amended, and licensed as a residential facility 63517  
under section 5123.19 of the Revised Code. 63518

"Residential facility" has the same meaning as in section 63519  
5123.19 of the Revised Code. 63520

(B) For the purpose of increasing the number of slots 63521  
available for home and community-based services and subject to 63522  
sections 5111.877 and 5111.878 of the Revised Code, the operator 63523  
of an intermediate care facility for the mentally retarded may 63524  
convert some or all of the beds in the facility from providing 63525  
ICF/MR services to providing home and community-based services if 63526

all of the following requirements are met: 63527

(1) The operator provides the directors of health, ~~job and family services~~, and developmental disabilities at least ninety days' notice of the operator's intent to make the conversion. 63528  
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(2) The operator complies with the requirements of sections 5111.65 to 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable. 63531  
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(3) If the operator intends to convert all of the facility's beds, the operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following: 63535  
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(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services; 63539  
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(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident. 63543  
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(4) If the operator intends to convert some but not all of the facility's beds, the operator notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following: 63548  
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(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services; 63554  
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(b) Begin to receive home and community-based services 63558  
instead of ICF/MR services from any provider of home and 63559  
community-based services that is willing and able to provide the 63560  
services to the resident if the resident is eligible for the 63561  
services and a slot for the services is available to the resident. 63562

(5) The operator meets the requirements for providing home 63563  
and community-based services, including the following: 63564

(a) Such requirements applicable to a residential facility if 63565  
the operator maintains the facility's license as a residential 63566  
facility; 63567

(b) Such requirements applicable to a facility that is not 63568  
licensed as a residential facility if the operator surrenders the 63569  
facility's license as a residential facility ~~license~~ under section 63570  
5123.19 of the Revised Code. 63571

(6) The ~~directors~~ director of developmental disabilities ~~and~~ 63572  
~~job and family services~~ approves the conversion. 63573

(C) A decision by the ~~directors~~ director of developmental 63574  
disabilities to approve or refuse to approve a proposed conversion 63575  
of beds is final. In making a decision, the ~~directors~~ director 63576  
shall consider all of the following: 63577

(1) The fiscal impact on the facility if some but not all of 63578  
the beds are converted; 63579

(2) The fiscal impact on the medical assistance program; 63580

(3) The availability of home and community-based services. 63581

(D) The notice provided to the directors under division 63582  
(B)(1) of this section shall specify whether some or all of the 63583  
facility's beds are to be converted. If some but not all of the 63584  
beds are to be converted, the notice shall specify how many of the 63585  
facility's beds are to be converted and how many of the beds are 63586  
to continue to provide ICF/MR services. The notice to the director 63587

of developmental disabilities shall specify whether the operator 63588  
wishes to surrender the facility's license as a residential 63589  
facility under section 5123.19 of the Revised Code. 63590

(E)(1) If the ~~directors~~ director of developmental 63591  
disabilities ~~and job and family services approve~~ approves a 63592  
conversion under division (C) of this section, the director of 63593  
health shall do the following: 63594

(a) Terminate the certification of the intermediate care 63595  
facility for the mentally retarded if the notice specifies that 63596  
all of the facility's beds are to be converted; 63597

(b) Reduce the facility's certified capacity by the number of 63598  
beds being converted if the notice specifies that some but not all 63599  
of the beds are to be converted. 63600

(2) The director of health shall notify the director of job 63601  
and family services of the termination or reduction. On receipt of 63602  
the director of health's notice, the director of job and family 63603  
services shall do the following: 63604

(a) Terminate the operator's medicaid provider agreement that 63605  
authorizes the operator to provide ICF/MR services at the facility 63606  
if the facility's certification was terminated; 63607

(b) Amend the operator's medicaid provider agreement to 63608  
reflect the facility's reduced certified capacity if the 63609  
facility's certified capacity is reduced. 63610

(3) In the case of action taken under division (E)(2)(a) of 63611  
this section, the operator is not entitled to notice or a hearing 63612  
under Chapter 119. of the Revised Code before the director of job 63613  
and family services terminates the medicaid provider agreement. 63614

**Sec. 5111.877.** The director of job and family services may 63615  
seek approval from the United States secretary of health and human 63616  
services for not more than a total of ~~two~~ five hundred slots for 63617

home and community-based services for the purposes of sections 63618  
5111.874, 5111.875, and 5111.876 of the Revised Code. 63619

**Sec. 5111.878.** Not more than a total of ~~one~~ five hundred beds 63620  
may be converted from providing ICF/MR services to providing home 63621  
and community-based services under sections 5111.874 and 5111.875 63622  
of the Revised Code. 63623

**Sec. 5111.89.** (A) As used in sections 5111.89 to 5111.894 of 63624  
the Revised Code: 63625

"Area agency on aging" has the same meaning as in section 63626  
173.14 of the Revised Code. 63627

"Assisted living program" means the program created under 63628  
this section. 63629

"Assisted living services" means the following home and 63630  
community-based services: personal care, homemaker, chore, 63631  
attendant care, companion, medication oversight, and therapeutic 63632  
social and recreational programming. 63633

"Assisted living waiver" means the federal medicaid waiver 63634  
granted by the United States secretary of health and human 63635  
services that authorizes the medicaid-funded component of the 63636  
assisted living program. 63637

"County or district home" means a county or district home 63638  
operated under Chapter 5155. of the Revised Code. 63639

"Long-term care consultation program" means the program the 63640  
department of aging is required to develop under section 173.42 of 63641  
the Revised Code. 63642

"Long-term care consultation program administrator" or 63643  
"administrator" means the department of aging or, if the 63644  
department contracts with an area agency on aging or other entity 63645

to administer the long-term care consultation program for a particular area, that agency or entity.

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) There is hereby created the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component.

(C)(1) Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The contract shall include an estimate of the medicaid-funded component's costs.

(c) The medicaid-funded component shall be operated as a separate medicaid waiver component.

(d) The medicaid-funded component may not serve more individuals than is set by the United States secretary of health and human services in the assisted living waiver.

(e) The director of job and family services may adopt rules 63676  
under section 5111.85 of the Revised Code regarding the 63677  
medicaid-funded component. 63678

(f) The director of aging may adopt rules under Chapter 119. 63679  
of the Revised Code regarding the medicaid-funded component that 63680  
the rules adopted by the director of job and family services under 63681  
division (C)(1)(e) of this section authorize the director of aging 63682  
to adopt. 63683

(2) If the unified long-term services and support medicaid 63684  
waiver component is created, the departments of aging and job and 63685  
family services shall work together to determine whether the 63686  
medicaid-funded component of the assisted living program should 63687  
continue to operate as a separate medicaid waiver component or be 63688  
terminated. If the departments determine that the medicaid-funded 63689  
component of the assisted living program should be terminated, the 63690  
medicaid-funded component shall cease to exist on a date the 63691  
departments shall specify. 63692

(D) The department of aging shall administer the state-funded 63693  
component of the assisted living program. The state-funded 63694  
component shall not be administered as part of the medicaid 63695  
program. 63696

An individual who is eligible for the state-funded component 63697  
may participate in the component for not more than ~~three months~~ 63698  
ninety days. 63699

The director of aging shall adopt rules in accordance with 63700  
section 111.15 of the Revised Code to implement the state-funded 63701  
component. 63702

**Sec. 5111.894.** (A) Subject to division (C)(2) of section 63703  
5111.89 of the Revised Code, the department of aging shall 63704  
establish a home first component of the assisted living program 63705

under which eligible individuals may be enrolled in the 63706  
medicaid-funded component of the assisted living program in 63707  
accordance with this section. An individual is eligible for the 63708  
assisted living program's home first component if both of the 63709  
following apply: 63710

(1) The individual has been determined to be eligible for the 63711  
medicaid-funded component of the assisted living program. 63712

(2) At least one of the following applies: 63713

(a) The individual has been admitted to a nursing facility. 63714

(b) A physician has determined and documented in writing that 63715  
the individual has a medical condition that, unless the individual 63716  
is enrolled in home and community-based services such as the 63717  
assisted living program, will require the individual to be 63718  
admitted to a nursing facility within thirty days of the 63719  
physician's determination. 63720

(c) The individual has been hospitalized and a physician has 63721  
determined and documented in writing that, unless the individual 63722  
is enrolled in home and community-based services such as the 63723  
assisted living program, the individual is to be transported 63724  
directly from the hospital to a nursing facility and admitted. 63725

(d) Both of the following apply: 63726

(i) The individual is the subject of a report made under 63727  
section 5101.61 of the Revised Code regarding abuse, neglect, or 63728  
exploitation or such a report referred to a county department of 63729  
job and family services under section 5126.31 of the Revised Code 63730  
or has made a request to a county department for protective 63731  
services as defined in section 5101.60 of the Revised Code. 63732

(ii) A county department of job and family services and an 63733  
area agency on aging have jointly documented in writing that, 63734  
unless the individual is enrolled in home and community-based 63735

services such as the assisted living program, the individual 63736  
should be admitted to a nursing facility. 63737

~~(c) The individual resided in a residential care facility for 63738  
at least six months immediately before applying for the 63739  
medicaid funded component of the assisted living program and is at 63740  
risk of imminent admission to a nursing facility because the costs 63741  
of residing in the residential care facility have depleted the 63742  
individual's resources such that the individual is unable to 63743  
continue to afford the cost of residing in the residential care 63744  
facility. 63745~~

(B) Each month, each area agency on aging shall identify 63746  
individuals residing in the area that the area agency on aging 63747  
serves who are eligible for the home first component of the 63748  
assisted living program. When an area agency on aging identifies 63749  
such an individual and determines that there is a vacancy in a 63750  
residential care facility participating in the medicaid-funded 63751  
component of the assisted living program that is acceptable to the 63752  
individual, the agency shall notify the long-term care 63753  
consultation program administrator serving the area in which the 63754  
individual resides. The administrator shall determine whether the 63755  
assisted living program is appropriate for the individual and 63756  
whether the individual would rather participate in the assisted 63757  
living program than continue or begin to reside in a nursing 63758  
facility. If the administrator determines that the assisted living 63759  
program is appropriate for the individual and the individual would 63760  
rather participate in the assisted living program than continue or 63761  
begin to reside in a nursing facility, the administrator shall so 63762  
notify the department of aging. On receipt of the notice from the 63763  
administrator, the department shall approve the individual's 63764  
enrollment in the medicaid-funded component of the assisted living 63765  
program regardless of the unified waiting list established under 63766  
section 173.404 of the Revised Code, unless the enrollment would 63767

cause the component to exceed any limit on the number of 63768  
individuals who may participate in the component as set by the 63769  
United States secretary of health and human services in the 63770  
assisted living waiver. 63771

**Sec. 5111.941.** ~~(A) The medicaid revenue and collections~~ 63772  
health care/medicaid support and recoveries fund is hereby created 63773  
in the state treasury. ~~Except~~ All of the following shall be 63774  
credited to the fund: 63775

(1) Except as otherwise provided by statute or as authorized 63776  
by the controlling board, the nonfederal share of all 63777  
medicaid-related revenues, collections, and recoveries ~~shall be~~ 63778  
~~credited to the fund;~~ 63779

(2) Federal reimbursement received for payment adjustments 63780  
made pursuant to section 1923 of the "Social Security Act," 101 63781  
Stat. 1330-148 (1987), 42 U.S.C. 1396r-4, as amended, under the 63782  
medicaid program to state mental health hospitals maintained and 63783  
operated by the department of mental health under division (A) of 63784  
section 5119.02 of the Revised Code; 63785

(3) Revenues the department of job and family services 63786  
receives from another state agency for medicaid services pursuant 63787  
to an interagency agreement, other than such revenues required to 63788  
be deposited into the health care services administration fund 63789  
created under section 5111.94 of the Revised Code; 63790

(4) The first seven hundred fifty thousand dollars the 63791  
department receives in a fiscal year for performing eligibility 63792  
verification services necessary for compliance with the 63793  
independent, certified audit requirement of 42 C.F.R. 455.304. 63794

(B) The department of job and family services shall use money 63795  
credited to the ~~medicaid revenue and collections~~ health 63796  
care/medicaid support and recoveries fund to pay for medicaid 63797

services and contracts. 63798

Sec. 5111.946. (A) As used in this section, "medicaid managed care organization" means a managed care organization under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code. 63799  
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(B) There is hereby created in the state treasury the health care compliance fund. All of the following shall be credited to the fund: 63803  
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(1) All fines imposed on and collected from medicaid managed care organizations for failure to meet performance standards or other requirements specified in provider agreements or rules adopted by the department; 63806  
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(2) Money the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304, other than the amounts of such money that are to be credited to the health care/medicaid support and recoveries fund under section 5111.941 of the Revised Code; 63810  
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(3) All investment earnings of the fund. 63816

(C) Money credited to the health care compliance fund shall be used solely for the following purposes: 63817  
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(1) To reimburse medicaid managed care organizations that have paid fines for failure to meet performance standards or other requirements and have come into compliance by meeting requirements as specified by the department; 63819  
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(2) To provide financial incentive awards established pursuant to section 5111.171 of the Revised Code and specified in contracts between medicaid managed care organizations and the department. 63823  
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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).

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(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.

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Sec. 5111.97. (A) As used in this section, ~~"nursing:~~

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(1) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

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(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

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(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The project may be established as a separate nonmedicaid program or integrated into a new or existing ~~program of medicaid-funded~~ home and community-based services ~~authorized by a medicaid waiver approved by the United States department of health and human services component.~~ The director shall permit any recipient of

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medicaid-funded nursing facility services to apply for 63857  
participation in the project, but may limit the number of project 63858  
participants. 63859

The director shall ensure that an assessment of an applicant 63860  
is conducted as soon as practicable to determine whether the 63861  
applicant is eligible for participation in the project. To the 63862  
maximum extent possible, the assessment and eligibility 63863  
determination shall be completed not later than the date that 63864  
occurs six months after the applicant became a recipient of 63865  
medicaid-funded nursing facility services. 63866

(C) To be eligible for benefits under the project, a medicaid 63867  
recipient must satisfy all of the following requirements: 63868

(1) The medicaid recipient must be a recipient of 63869  
medicaid-funded nursing facility services, at the time of applying 63870  
for the project benefits. 63871

(2) If the project is established as a nonmedicaid program, 63872  
the medicaid recipient must be able to remain in the community as 63873  
a result of receiving project benefits and the projected cost of 63874  
the benefits to the project does not exceed eighty per cent of the 63875  
average monthly medicaid cost of a medicaid recipient in a nursing 63876  
facility. 63877

(3) If the project is integrated into a ~~medicaid-funded~~ home 63878  
and community-based services medicaid waiver ~~program~~ component, 63879  
the medicaid recipient must meet the waiver component's enrollment 63880  
criteria. 63881

(D) If the director establishes the Ohio access success 63882  
project, the benefits provided under the project may include 63883  
payment of all of the following: 63884

(1) The first month's rent in a community setting; 63885

(2) Rental deposits; 63886

|   |   |
|---|---|
| (3) Utility deposits;   | 63887   |
| (4) Moving expenses;  | 63888   |
| (5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.  | 63889<br>63890<br>63891                                     |
| (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.   | 63892<br>63893<br>63894                                     |
| (F) <u>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.</u>  | 63895<br>63896<br>63897<br>63898<br>63899<br>63900          |
| (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 <del>medicaid</del> home and community-based services <u>medicaid waiver program component</u> to serve individuals who meet the criteria for participation in the Ohio access success project. <del>The</del> | 63901<br>63902<br>63903<br>63904<br>63905<br>63906<br>63907 |
| (H) <u>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.</u>   | 63908<br>63909<br>63910<br>63911<br>63912                   |
| <b>Sec. 5112.31.</b> The department of job and family services shall do all of the following:   | 63913<br>63914  |
| (A) Subject to <u>section 5112.331 of the Revised Code and</u> divisions (B) and (C) of this section and for the purposes   | 63915<br>63916  |

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 63948  
impermissible health care-related tax under section 1903(w) of the 63949  
"Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C.A.- 63950  
1396b(w), as amended, take all necessary actions to cease 63951  
implementation of those sections in accordance with rules adopted 63952  
under section 5112.39 of the Revised Code. 63953

**Sec. 5112.33.** (A) Not later than the fifteenth day of August 63954  
of each year, the department of job and family services shall 63955  
determine the annual franchise permit fee for each intermediate 63956  
care facility for the mentally retarded in accordance with section 63957  
5112.31 of the Revised Code. 63958

(B) Not later than the first day of September of each year, 63959  
the department shall mail to each intermediate care facility for 63960  
the mentally retarded notice of the amount of the franchise permit 63961  
fee the facility has been assessed under section 5112.31 of the 63962  
Revised Code. 63963

(C) ~~Each~~ Subject to section 5112.331 of the Revised Code, 63964  
each intermediate care facility for the mentally retarded shall 63965  
pay its fee under section 5112.31 of the Revised Code to the 63966  
department in quarterly installment payments not later than 63967  
forty-five days after the last day of each September, December, 63968  
March, and June. 63969

**Sec. 5112.331.** (A) If, during the period beginning on the 63970  
first day of May of a calendar year and ending on the first day of 63971  
January of the immediately following calendar year, the operator 63972  
of an intermediate care facility for the mentally retarded 63973  
converts, pursuant to section 5111.874 of the Revised Code, one or 63974  
more of the facility's beds to providing home and community-based 63975  
services, the department of job and family services shall do the 63976  
following: 63977

(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; 63978  
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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. 63983  
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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: 63988  
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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; 63992  
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(b) The number of days in the second half of the fiscal year for which the redetermination is made. 63995  
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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. 63997  
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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: 64002  
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(1) Withhold an amount less than or equal to the installment 64007

and penalty assessed under section 5112.34 of the Revised Code 64008  
from a medicaid payment due the facility until the facility pays 64009  
the installment and penalty; 64010

(2) Offset an amount less than or equal to the installment 64011  
and penalty assessed under section 5112.34 of the Revised Code 64012  
from a ~~Medicaid~~ medicaid payment due the ~~nursing~~ facility ~~or~~ 64013  
~~hospital~~; 64014

(3) Terminate the facility's medicaid provider agreement. 64015

(B) The department may offset a medicaid payment under 64016  
division (A) of this section without providing notice to the 64017  
intermediate care facility for the mentally retarded and without 64018  
conducting an adjudication under Chapter 119. of the Revised Code. 64019

**Sec. 5112.37.** There is hereby created in the state treasury 64020  
the home and community-based services for the mentally retarded 64021  
and developmentally disabled fund. ~~Eighty one and seventy seven~~ 64022  
~~hundredths per cent of all~~ All installment payments and penalties 64023  
paid by an intermediate care facility for the mentally retarded 64024  
under sections 5112.33 and 5112.34 of the Revised Code ~~for state~~ 64025  
~~fiscal year 2012~~ shall be deposited into the fund. ~~Eighty two and~~ 64026  
~~two tenths per cent of all installment payments and penalties paid~~ 64027  
~~by an intermediate care facility for the mentally retarded under~~ 64028  
~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 64029  
~~year 2013 and thereafter shall be deposited into the fund. The~~ 64030  
~~department~~ As soon as possible after the end of each quarter, the 64031  
director of job and family services shall ~~distribute~~ certify to 64032  
the director of budget and management the amount of money in that 64033  
is in the fund ~~in accordance with rules adopted under section~~ 64034  
~~5112.39 of the Revised Code~~ as of the last day of that quarter. 64035  
~~The departments of job and family services and developmental~~ 64036  
~~disabilities shall use the money for the medicaid program~~ 64037  
~~established under Chapter 5111. of the Revised Code and home and~~ 64038

~~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.~~ 64039  
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**Sec. 5112.371.** There is hereby created in the state treasury 64046  
the department of developmental disabilities operating and 64047  
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. 64048  
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The money in the fund shall be used for the expenses of the programs 64056  
that the department of developmental disabilities administers and 64057  
the department's administrative expenses. 64058

**Sec. 5112.39.** The director of job and family services shall 64059  
adopt rules in accordance with Chapter 119. of the Revised Code to 64060  
do ~~all~~ both of the following: 64061

(A) Prescribe the actions the department will take to cease 64062  
implementation of sections 5112.30 to 5112.39 of the Revised Code 64063  
if the United States secretary of health and human services 64064  
determines that the franchise permit fee imposed under section 64065  
5112.31 of the Revised Code is an impermissible health 64066  
care-related tax under section 1903(w) of the "Social Security 64067  
Act," 49 105 Stat. 620 1793 (1935 1991), 42 U.S.C.A. 1396b(w), as 64068  
amended; 64069

~~(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;~~ 64070  
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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. 64074  
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**Sec. 5119.22.** (A)~~(1)~~ As used in this section and section 5119.221 of the Revised Code: 64077  
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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. 64079  
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(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services. 64084  
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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. 64086  
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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. 64089  
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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. 64092  
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~~(b)~~(6) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code. 64095  
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~~(c)~~(7) "Operator" means the person that is responsible for the administration and management of a residential facility. 64097  
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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 and personal care services for only one or two adults who are unrelated to the owner of the facility; accommodations, supervision, and personal care services ~~to~~ for three to sixteen unrelated adults; or

accommodations, supervision, and personal care services for one or 64129  
two of the following unrelated persons: 64130

(i) Persons of any age with mental illness ~~or persons with~~ 64131  
~~severe mental disabilities~~ who are referred by or are receiving 64132  
community mental health services from a community mental health 64133  
agency, hospital, or practitioner; 64134

~~(iii) Room and board to~~ (ii) Persons of any age with severe 64135  
mental disabilities who are referred by or are receiving community 64136  
mental health services from a community mental health agency, 64137  
hospital, or practitioner. 64138

(c) Room and board for five or more of the following 64139  
unrelated persons: 64140

(i) Adults with mental illness ~~or persons with severe mental~~ 64141  
~~disabilities~~ who are referred by or are receiving community mental 64142  
health services from a community mental health agency, hospital, 64143  
or practitioner; 64144

(ii) Adults with severe mental disabilities who are referred 64145  
by or are receiving community mental health services from a 64146  
community mental health agency, hospital, or practitioner. 64147

~~The following are not residential facilities (10)~~ 64148  
"Residential facility" does not include any of the following: the 64149  
~~residence of a relative or guardian of a mentally ill individual,~~ 64150  
~~a~~ 64151

(a) A hospital subject to licensure under section 5119.20 of 64152  
the Revised Code, ~~a;~~ 64153

(b) A residential facility as defined in licensed under 64154  
section 5123.19 of the Revised Code, ~~a facility providing care for~~ 64155  
~~a child in the custody of a public children services agency or a~~ 64156  
~~private agency certified under section 5103.03 of the Revised~~ 64157  
Code, a foster care facility or otherwise regulated by the 64158

|  |       |
|--|-------|
| <u>department of developmental disabilities;</u>                                     | 64159 |
| <u>(c) An institution or association subject to certification</u>                    | 64160 |
| <u>under section 5103.03 of the Revised Code, <del>an adult care facility</del></u>  | 64161 |
| <u><del>subject to licensure under sections 5119.70 to 5119.88 of the</del></u>      | 64162 |
| <u>Revised Code, and a;</u>  | 64163 |
| <u>(d) A facility operated by a hospice care program licensed</u>                    | 64164 |
| <u>under section 3712.04 of the Revised Code that is used exclusively</u>            | 64165 |
| <u>for care of hospice patients;</u>   | 64166 |
| <u>(e) A nursing home, residential care facility, or home for</u>                    | 64167 |
| <u>the aging <del>subject to licensure under</del> as defined in section 3721.02</u> | 64168 |
| <u>of the Revised Code;</u>  | 64169 |
| <u>(f) An alcohol or drug addiction program as defined in</u>                        | 64170 |
| <u>section 3793.01 of the Revised Code;</u>  | 64171 |
| <u>(g) A facility licensed to provide methadone treatment under</u>                  | 64172 |
| <u>section 3793.11 of the Revised Code;</u>  | 64173 |
| <u>(h) Any facility that receives funding for operating costs</u>                    | 64174 |
| <u>from the department of development under any program established</u>              | 64175 |
| <u>to provide emergency shelter housing or transitional housing for</u>              | 64176 |
| <u>the homeless;</u>   | 64177 |
| <u>(i) A terminal care facility for the homeless that has</u>                        | 64178 |
| <u>entered into an agreement with a hospice care program under</u>                   | 64179 |
| <u>section 3712.07 of the Revised Code;</u>  | 64180 |
| <u>(j) A facility approved by the veterans administration under</u>                  | 64181 |
| <u>section 104(a) of the "Veterans Health Care Amendments of 1983,"</u>              | 64182 |
| <u>97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for</u>             | 64183 |
| <u>the placement and care of veterans.</u>   | 64184 |
| <u>(11) "Room and board" means the provision of sleeping and</u>                     | 64185 |
| <u>living space, meals or meal preparation, laundry services,</u>                    | 64186 |
| <u>housekeeping services, or any combination thereof.</u>                            | 64187 |
| <u>(12) "Supervision" means any of the following:</u>                                | 64188 |

(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities; 64189  
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(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities; 64192  
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(c) Assisting a resident in making or keeping an appointment. 64195

(13) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle. 64196  
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~~(2)(B)~~ Nothing in division (A)~~(1)(d)(9)~~ of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance. 64201  
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~~(3)(C)~~ Except in the case of a residential facility described in division (A)~~(1)(d)(i)(9)(a)~~ of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, all medication taken by residents of a residential facility shall be self-administered, and no person shall be admitted to or retained by a residential facility unless the person is capable of taking the person's own medication and biologicals, as determined in writing by the person's personal physician. Members of the staff of a residential facility but may do any of the following: 64205  
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~~(a)(1)~~ Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container; 64215  
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~~(b)(2)~~ Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this 64217  
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section, and handing it to the resident. If the resident is 64220  
physically unable to open the container, a staff member may open 64221  
the container for the resident. 64222

~~(e)~~(3) Assist a physically impaired but mentally alert 64223  
resident, such as a resident with arthritis, cerebral palsy, or 64224  
Parkinson's disease, in removing oral or topical medication from 64225  
containers and in consuming or applying the medication, upon 64226  
request by or with the consent of the resident. If a resident is 64227  
physically unable to place a dose of medicine to the resident's 64228  
mouth without spilling it, a staff member may place the dose in a 64229  
container and place the container to the mouth of the resident. 64230

~~(B) Every (D)(1) Except as provided in division (D)(2) of~~ 64231  
~~this section, a person operating or desiring seeking to operate a~~ 64232  
~~residential facility shall apply for licensure of the facility to~~ 64233  
~~the department of mental health and. The application shall be~~ 64234  
~~submitted by the operator. When applying for the license, the~~ 64235  
~~applicant shall pay to the department the application fee~~ 64236  
~~specified in rules adopted under division (L) of this section. The~~ 64237  
~~fee is nonrefundable.~~ 64238

~~The department shall send a copy of the an application to the~~ 64239  
~~ADAMHS board of alcohol, drug addiction, and mental health~~ 64240  
~~services whose service district includes serving the county in~~ 64241  
~~which the person operates or desires seeks to operate a~~ 64242  
~~residential the facility. The ADAMHS board shall review such~~ 64243  
~~applications and recommend approval or disapproval to the~~ 64244  
~~department. Each recommendation shall be consistent with the~~ 64245  
~~board's community mental health plan.~~ 64246

~~(C) the application and provide to the department any~~ 64247  
~~information about the applicant or the facility that the board~~ 64248  
~~would like the department to consider in reviewing the~~ 64249  
~~application.~~ 64250

(2) A person may not apply for a license to operate a residential facility if the person is or has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met: 64251  
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(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. 64257  
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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. 64260  
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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. 64264  
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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 64274  
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districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(a) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(b) Require compliance with yard, parking, and sign regulation.

(3) Divisions (E)(1) and (2) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under this section in a single-family residential district or zone under conditions established by the political subdivision.

(4)(a) Notwithstanding divisions (E)(1) and (2) of this section and except as provided in division (E)(4)(b) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of this section.

(b) Division (E)(4)(a) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on the effective date of this section and that meet the criteria specified in division (A)(9)(b) of this section. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of this

section that are not existing and operating on the effective date 64314  
of this section. 64315

(F)(1) The department of mental health shall inspect and 64316  
license the operation of residential facilities. The department 64317  
shall consider the past record of the facility and the applicant 64318  
or licensee in arriving at its licensure decision. ~~The~~ 64319

The department may issue full, probationary, and interim 64320  
licenses. A full license shall expire two years after the date of 64321  
issuance, a probationary license shall expire in a shorter period 64322  
of time as ~~prescribed by rule~~ specified in rules adopted by the 64323  
director of mental health ~~pursuant to Chapter 119. of the Revised~~ 64324  
~~Code~~ under division (L) of this section, and an interim license 64325  
shall expire ninety days after the date of issuance. ~~The~~ A license 64326  
may be renewed in accordance with rules adopted by the director 64327  
under division (L) of this section. The renewal application shall 64328  
be submitted by the operator. When applying for renewal of a 64329  
license, the applicant shall pay to the department the renewal fee 64330  
specified in rules adopted under division (L) of this section. The 64331  
fee is nonrefundable. 64332

(2) The department may issue an order suspending the 64333  
admission of residents to the facility or refuse to issue or renew 64334  
and may revoke a license if it finds the facility is not in 64335  
compliance with rules adopted by the ~~department~~ director pursuant 64336  
to division ~~(G)~~(L) of this section or if any facility operated by 64337  
the applicant or licensee has ~~had~~ been cited for repeated 64338  
violations of statutes or rules during the period of previous 64339  
licenses. Proceedings initiated to deny applications for full or 64340  
probationary licenses or to revoke such licenses are governed by 64341  
Chapter 119. of the Revised Code. 64342

~~(D)~~(G) The department may issue an interim license to operate 64343  
a residential facility if both of the following conditions are 64344  
met: 64345

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under ~~Chapter 119. of the Revised Code~~ division (L) of this section.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

~~(E)~~(H)(1) The department of mental health may conduct an inspection of a residential facility as follows:

~~(1)~~(a) Prior to ~~the~~ issuance of a license ~~to a prospective operator for the facility~~;

~~(2)~~(b) Prior to ~~the~~ renewal of ~~any operator's~~ the license;

~~(3)~~(c) To determine whether a the facility has completed a plan of correction required pursuant to ~~this~~ division (H)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

~~(4)~~(d) Upon complaint by any individual or agency;

~~(5)~~(e) At any time the director considers an inspection to be necessary in order to determine whether ~~a residential~~ the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility, and its personnel, activities, and services. The department shall

have access to examine and copy all records, accounts, and any 64376  
other documents relating to the operation of the residential 64377  
facility, including records pertaining to residents, and shall 64378  
have access to the facility in order to conduct interviews with 64379  
the operator, staff, and residents. Following each inspection and 64380  
review, the department shall complete a report listing any 64381  
deficiencies, and including, when appropriate, a time table within 64382  
which the operator shall correct the deficiencies. The department 64383  
may require the operator to submit a plan of correction describing 64384  
how the deficiencies will be corrected. 64385

~~(F)~~(I) No person shall do any of the following: 64386

(1) Operate a residential facility unless the facility holds 64387  
a valid license; 64388

(2) Violate any of the conditions of licensure after having 64389  
been granted a license; 64390

(3) Interfere with a state or local official's inspection or 64391  
investigation of a residential facility; 64392

(4) Violate any of the provisions of this section or any 64393  
rules adopted pursuant to this section. 64394

~~(G)~~(J) The following may enter a residential facility at any 64395  
time: 64396

(1) Employees designated by the director of mental health; 64397

(2) Employees of an ADAMHS board under either of the 64398  
following circumstances: 64399

(a) When a resident of the facility is receiving services 64400  
from a community mental health agency under contract with that 64401  
ADAMHS board or another ADAMHS board; 64402

(b) When authorized by section 340.05 of the Revised Code. 64403

(3) Employees of a community mental health agency under 64404  
either of the following circumstances: 64405

|   |  |
|---|--|
| <u>(a) When the agency has a client residing in the facility;</u>   | 64406  |
| <u>(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract.</u>   | 64407<br>64408                                     |
| <u>(4) Representatives of the state long-term care ombudsperson program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program.</u>                           | 64409<br>64410<br>64411<br>64412<br>64413          |
| <u>The persons specified in division (J) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.</u>  | 64414<br>64415<br>64416<br>64417                   |
| <u>(K) Employees of the department of mental health may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.</u> | 64418<br>64419<br>64420<br>64421<br>64422<br>64423 |
| <u>(L) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code, <del>prescribing minimum</del> governing the licensing and operation of residential facilities. The rules shall establish all of the following:</u>   | 64424<br>64425<br>64426<br>64427                   |
| <u>(1) <del>Minimum</del> standards for the health, safety, adequacy, and cultural <del>specificity and sensitivity</del> competency of treatment of and services for persons in residential facilities; <del>establishing</del> procedures</u>   | 64428<br>64429<br>64430<br>64431                   |
| <u>(2) Procedures for the issuance, renewal or revocation of the licenses of <del>such residential</del> facilities; <del>establishing the</del></u>  | 64432<br>64433                                     |
| <u>(3) Procedures for conducting criminal records checks for prospective operators, staff, and other individuals who, if</u>  | 64434<br>64435                                     |

|  |       |
|--|-------|
| <u>employed by a residential facility, would have unsupervised access</u>    | 64436 |
| <u>to facility residents;</u>  | 64437 |
| <u>(4) The fee to be paid when applying for a new residential</u>            | 64438 |
| <u>facility license or renewing the license;</u>                             | 64439 |
| <u>(5) Procedures for the operator of a residential facility to</u>          | 64440 |
| <u>follow when notifying the ADAMHS board serving the county in which</u>    | 64441 |
| <u>the facility is located when the facility is serving residents</u>        | 64442 |
| <u>with mental illness or severe mental disability, including the</u>        | 64443 |
| <u>circumstances under which the operator is required to make such a</u>     | 64444 |
| <u>notification;</u>   | 64445 |
| <u>(6) Procedures for the issuance and termination of orders of</u>          | 64446 |
| <u>suspension of admission of residents to a residential facility;</u>       | 64447 |
| <u>(7) Measures to be taken by residential facilities relative</u>           | 64448 |
| <u>to residents' medication;</u>   | 64449 |
| <u>(8) Requirements relating to preparation of special diets;</u>            | 64450 |
| <u>(9) The maximum number of residents of who may be served in a</u>         | 64451 |
| <u>residential facility; establishing the</u>                                | 64452 |
| <u>(10) The rights of residents of residential facilities and</u>            | 64453 |
| <u>procedures to protect such rights; and requiring</u>                      | 64454 |
| <u>(11) Procedures for obtaining an affiliation agreement</u>                | 64455 |
| <u>approved by the board between a residential facility and a</u>            | 64456 |
| <u>community mental health agency. Such affiliation agreement must be</u>    | 64457 |
| <u>consistent with the residential portion of the community mental</u>       | 64458 |
| <u>health plan submitted pursuant to section 340.03 of the Revised</u>       | 64459 |
| <u>Code;</u>   | 64460 |
| <u>(12) Standards and procedures under which the director may</u>            | 64461 |
| <u>waive the requirements of any of the rules adopted.</u>                   | 64462 |
| <del>(H) The department may investigate any facility that has been</del>     | 64463 |
| <del>reported to the department or that the department has reasonable</del>  | 64464 |
| <del>cause to believe is operating as a residential facility without a</del> | 64465 |

~~valid license.~~ 64466

~~(I)(M)(1)~~ The department may withhold the source of any 64467  
complaint reported as a violation of this ~~act~~ section when the 64468  
department determines that disclosure could be detrimental to the 64469  
department's purposes or could jeopardize the investigation. The 64470  
department may disclose the source of any complaint if the 64471  
complainant agrees in writing to such disclosure and shall 64472  
disclose the source upon order by a court of competent 64473  
jurisdiction. 64474

~~(J)(2)~~ Any person who makes a complaint under division (M)(1) 64475  
of this section, or any person who participates in an 64476  
administrative or judicial proceeding resulting from such a 64477  
complaint, is immune from civil liability and is not subject to 64478  
criminal prosecution, other than for perjury, unless the person 64479  
has acted in bad faith or with malicious purpose. 64480

~~(N)(1)~~ The director of mental health may petition the court 64481  
of common pleas of the county in which a residential facility is 64482  
located for an order enjoining any person from operating a 64483  
residential facility without a license or from operating a 64484  
licensed facility when, in the director's judgment, there is a 64485  
~~real and~~ present danger to the health or safety of any of the 64486  
occupants of the facility. The court shall have jurisdiction to 64487  
grant such injunctive relief upon a showing that the respondent 64488  
named in the petition is operating a facility without a license or 64489  
there is a ~~real and~~ present danger to the health or safety of any 64490  
residents of the facility. 64491

~~(K)~~ ~~Whoever violates division (F) of this section or any rule~~ 64492  
~~adopted under this section is liable for a civil penalty of one~~ 64493  
~~hundred dollars for the first offense; for each subsequent~~ 64494  
~~offense, such violator is liable for a civil penalty of five~~ 64495  
~~hundred dollars. If the violator does not pay, the attorney~~ 64496  
~~general, upon the request of the director of mental health, shall~~ 64497

~~bring a civil action to collect the penalty. Fines collected 64498  
pursuant to this section shall be deposited into the state 64499  
treasury to the credit of the mental health sale of goods and 64500  
services fund. 64501~~

(2) When the court grants injunctive relief in the case of a 64502  
facility operating without a license, the court shall issue, at a 64503  
minimum, an order enjoining the facility from admitting new 64504  
residents to the facility and an order requiring the facility to 64505  
assist with the safe and orderly relocation of the facility's 64506  
residents. 64507

(3) If injunctive relief is granted against a facility for 64508  
operating without a license and the facility continues to operate 64509  
without a license, the director shall refer the case to the 64510  
attorney general for further action. 64511

(O) The director may fine a person for violating division (I) 64512  
of this section. The fine shall be five hundred dollars for a 64513  
first offense; for each subsequent offense, the fine shall be one 64514  
thousand dollars. The director's actions in imposing a fine shall 64515  
be taken in accordance with Chapter 119. of the Revised Code. 64516

**Sec. 5119.61.** Any provision in this chapter that refers to a 64517  
board of alcohol, drug addiction, and mental health services also 64518  
refers to the community mental health board in an alcohol, drug 64519  
addiction, and mental health service district that has a community 64520  
mental health board. 64521

The director of mental health with respect to all facilities 64522  
and programs established and operated under Chapter 340. of the 64523  
Revised Code for mentally ill and emotionally disturbed persons, 64524  
shall do all of the following: 64525

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 64526  
that may be necessary to carry out the purposes of Chapter 340. 64527

and sections 5119.61 to 5119.63 of the Revised Code. 64528

(1) The rules shall include ~~all of~~ the following: 64529

(a) Rules governing a community mental health agency's 64530  
services under section 340.091 of the Revised Code to an 64531  
individual referred to the agency under division ~~(C)~~(D)(2) of 64532  
section 5119.69 of the Revised Code; 64533

(b) For the purpose of division (A)(16) of section 340.03 of 64534  
the Revised Code, rules governing the duties of mental health 64535  
agencies and boards of alcohol, drug addiction, and mental health 64536  
services ~~under section 5119.88 of the Revised Code~~ regarding 64537  
referrals of individuals with mental illness or severe mental 64538  
disability to ~~adult care~~ residential facilities as defined in 64539  
division (A)(9)(b) of section 5119.22 of the Revised Code and 64540  
effective arrangements for ongoing mental health services for the 64541  
individuals. ~~The rules shall do at least the following:~~ 64542

~~(i) Provide for agencies and boards to participate fully in 64543  
the procedures owners and managers of adult care facilities must 64544  
follow under division (A) of section 5119.88 of the Revised Code;~~ 64545

~~(ii) Specify the manner in which boards are accountable for 64546  
ensuring that ongoing mental health services are effectively 64547  
arranged for individuals with mental illness or severe mental 64548  
disability who are referred by the board or mental health agency 64549  
under contract with the board to an adult care facility.~~ 64550

~~(c) Rules governing a board of alcohol, drug addiction, and 64551  
mental health services when making a report to the director of 64552  
mental health under section 5119.87 of the Revised Code regarding 64553  
the quality of care and services provided by an adult care 64554  
facility to a person with mental illness or a severe mental 64555  
disability.~~ 64556

(2) Rules may be adopted to govern the method of paying a 64557  
community mental health facility, as defined in section 5111.023 64558

of the Revised Code, for providing services listed in division (B) 64559  
of that section. Such rules must be consistent with the contract 64560  
entered into between the departments of job and family services 64561  
and mental health under section 5111.91 of the Revised Code and 64562  
include requirements ensuring appropriate service utilization. 64563

(B) Review and evaluate, and, taking into account the 64564  
findings and recommendations of the board of alcohol, drug 64565  
addiction, and mental health services of the district served by 64566  
the program and the requirements and priorities of the state 64567  
mental health plan, including the needs of residents of the 64568  
district now residing in state mental institutions, and make 64569  
recommendations for needed improvements to boards of alcohol, drug 64570  
addiction, and mental health services; 64571

(C) Provide consultative services to community mental health 64572  
agencies with the knowledge and cooperation of the board of 64573  
alcohol, drug addiction, and mental health services; 64574

(D) At the director's discretion, provide to boards of 64575  
alcohol, drug addiction, and mental health services state or 64576  
federal funds, in addition to those allocated under section 64577  
5119.62 of the Revised Code, for special programs or projects the 64578  
director considers necessary but for which local funds are not 64579  
available; 64580

(E) Establish criteria by which a board of alcohol, drug 64581  
addiction, and mental health services reviews and evaluates the 64582  
quality, effectiveness, and efficiency of services provided 64583  
through its community mental health plan. The criteria shall 64584  
include requirements ensuring appropriate service utilization. The 64585  
department shall assess a board's evaluation of services and the 64586  
compliance of each board with this section, Chapter 340. or 64587  
section 5119.62 of the Revised Code, and other state or federal 64588  
law and regulations. The department, in cooperation with the 64589  
board, periodically shall review and evaluate the quality, 64590

effectiveness, and efficiency of services provided through each 64591  
board. The department shall collect information that is necessary 64592  
to perform these functions. 64593

(F) To the extent the director determines necessary and after 64594  
consulting with boards of alcohol, drug addiction, and mental 64595  
health services, develop and operate, or contract for the 64596  
operation of, a community mental health information system or 64597  
systems. 64598

Boards of alcohol, drug ~~abuse~~ addiction, and mental health 64599  
services shall submit information requested by the department in 64600  
the form and manner prescribed by the department. Information 64601  
collected by the department shall include, but not be limited to, 64602  
all of the following: 64603

(1) Information regarding units of services provided in whole 64604  
or in part under contract with a board, including diagnosis and 64605  
special needs, demographic information, the number of units of 64606  
service provided, past treatment, financial status, and service 64607  
dates in accordance with rules adopted by the department in 64608  
accordance with Chapter 119. of the Revised Code; 64609

(2) Financial information other than price or price-related 64610  
data regarding expenditures of boards and community mental health 64611  
agencies, including units of service provided, budgeted and actual 64612  
expenses by type, and sources of funds. 64613

Boards shall submit the information specified in division 64614  
(F)(1) of this section no less frequently than annually for each 64615  
client, and each time the client's case is opened or closed. The 64616  
department shall not collect any personal information from the 64617  
boards except as required or permitted by state or federal law for 64618  
purposes related to payment, health care operations, program and 64619  
service evaluation, reporting activities, research, system 64620  
administration, and oversight. 64621

(G) Review each board's community mental health plan 64622  
submitted pursuant to section 340.03 of the Revised Code and 64623  
approve or disapprove it in whole or in part. Periodically, in 64624  
consultation with representatives of boards and after considering 64625  
the recommendations of the medical director, the director shall 64626  
issue criteria for determining when a plan is complete, criteria 64627  
for plan approval or disapproval, and provisions for conditional 64628  
approval. The factors that the director considers may include, but 64629  
are not limited to, the following: 64630

(1) The mental health needs of all persons residing within 64631  
the board's service district, especially severely mentally 64632  
disabled children, adolescents, and adults; 64633

(2) The demonstrated quality, effectiveness, efficiency, and 64634  
cultural relevance of the services provided in each service 64635  
district, the extent to which any services are duplicative of 64636  
other available services, and whether the services meet the needs 64637  
identified above; 64638

(3) The adequacy of the board's accounting for the 64639  
expenditure of funds. 64640

If the director disapproves all or part of any plan, the 64641  
director shall provide the board an opportunity to present its 64642  
position. The director shall inform the board of the reasons for 64643  
the disapproval and of the criteria that must be met before the 64644  
plan may be approved. The director shall give the board a 64645  
reasonable time within which to meet the criteria, and shall offer 64646  
technical assistance to the board to help it meet the criteria. 64647

If the approval of a plan remains in dispute, the board or 64648  
the director may request that the dispute be submitted to a 64649  
mutually agreed upon third-party mediator with the cost to be 64650  
shared by the board and the department. The mediator shall issue 64651  
to the board and the department recommendations for resolution of 64652

the dispute. The director, taking into consideration the 64653  
recommendations of the mediator, shall make a final determination 64654  
and approve or disapprove the plan, in whole or in part. 64655

**Sec. 5119.69.** (A) As used in this section and section 64656  
5119.691 of the Revised Code: 64657

(1) "Long-term care consultation program" means the program 64658  
the department of aging is required to develop under section 64659  
173.42 of the Revised Code. 64660

(2) "Long-term care consultation program administrator" or 64661  
"administrator" means the department of aging or, if the 64662  
department contracts with an area agency on aging or other entity 64663  
to administer the long-term care consultation program for a 64664  
particular area, that agency or entity. 64665

(3) "Nursing facility" has the same meaning as in section 64666  
5111.20 of the Revised Code. 64667

(4) "Residential state supplement administrative agency" 64668  
means the department of mental health or, if the department 64669  
designates an entity under division (C) of this section for a 64670  
particular area, the designated entity. 64671

(5) "Residential state supplement program" means the program 64672  
administered pursuant to this section. 64673

(B) The department of mental health shall implement the 64674  
residential state supplement program under which the state 64675  
supplements the supplemental security income payments received by 64676  
aged, blind, or disabled adults under Title XVI of the "Social 64677  
Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. 64678  
Residential state supplement payments shall be used for the 64679  
provision of accommodations, supervision, and personal care 64680  
services to supplemental security income recipients who the 64681  
department determines are at risk of needing institutional care. 64682

~~(B)~~(C) In implementing the program, the department may 64683  
designate one or more entities to be responsible for providing 64684  
administrative services regarding the program. The department may 64685  
designate an entity to be a residential state supplement 64686  
administrative agency under this division either by entering into 64687  
a contract with the entity to serve in that capacity or by 64688  
otherwise delegating to the entity the responsibility to serve in 64689  
that capacity. 64690

~~(C)~~(D) For an individual to be eligible for residential state 64691  
supplement payments, all of the following must be the case: 64692

(1) Except as provided by division ~~(G)~~(H) of this section, 64693  
the individual must reside in one of the following: 64694

(a) ~~An adult foster home certified under section 5119.692 of~~ 64695  
~~the Revised Code;~~ 64696

~~(b)~~ A home or facility, other than a nursing home or nursing 64697  
home unit of a home for the aging, licensed by the department of 64698  
health under Chapter 3721. of the Revised Code ~~or the department~~ 64699  
~~of mental health under sections 5119.70 to 5119.88 of the Revised~~ 64700  
~~Code;~~ 64701

~~(c)~~(b) A residential facility as defined in division 64702  
(A)~~(1)~~(d)~~(ii)~~(9)(b) of section 5119.22 of the Revised Code 64703  
licensed by the department of mental health; 64704

~~(d)~~(c) An apartment or room used to provide community mental 64705  
health housing services certified by the department of mental 64706  
health under section 5119.611 of the Revised Code and approved by 64707  
a board of alcohol, drug addiction, and mental health services 64708  
under division (A)(14) of section 340.03 of the Revised Code. 64709

(2) A residential state supplement administrative agency must 64710  
have determined that the environment in which the individual will 64711  
be living while receiving the payments is appropriate for the 64712  
individual's needs. If the individual is eligible for supplemental 64713

security income payments or social security disability insurance 64714  
benefits because of a mental disability, the residential state 64715  
supplement administrative agency shall refer the individual to a 64716  
community mental health agency for ~~the community mental health~~ 64717  
~~agency to issue in accordance with an assessment under division~~ 64718  
~~(A) of section 340.091 of the Revised Code a recommendation on~~ 64719  
~~whether the residential state supplement administrative agency~~ 64720  
~~should determine that the environment in which the individual will~~ 64721  
~~be living while receiving the payments is appropriate for the~~ 64722  
~~individual's needs.~~ 64723

(3) The individual satisfies all eligibility requirements 64724  
established by rules adopted under division ~~(D)~~(E) of this 64725  
section. 64726

~~(D)~~(E) The directors of mental health and job and family 64727  
services shall adopt rules in accordance with section 111.15 of 64728  
the Revised Code as necessary to implement the residential state 64729  
supplement program. 64730

To the extent permitted by Title XVI of the "Social Security 64731  
Act," and any other provision of federal law, the director of job 64732  
and family services may adopt rules establishing standards for 64733  
adjusting the eligibility requirements concerning the level of 64734  
impairment a person must have so that the amount appropriated for 64735  
the program by the general assembly is adequate for the number of 64736  
eligible individuals. The rules shall not limit the eligibility of 64737  
disabled persons solely on a basis classifying disabilities as 64738  
physical or mental. The director of job and family services also 64739  
may adopt rules that establish eligibility standards for aged, 64740  
blind, or disabled individuals who reside in one of the homes or 64741  
facilities specified in division ~~(C)~~(D)(1) of this section but 64742  
who, because of their income, do not receive supplemental security 64743  
income payments. The rules may provide that these individuals may 64744  
include individuals who receive other types of benefits, 64745

including, social security disability insurance benefits provided 64746  
under Title II of the "Social Security Act," 49 Stat. 620 (1935), 64747  
42 U.S.C.A. 401, as amended. Notwithstanding division ~~(A)~~(B) of 64748  
this section, such payments may be made if funds are available for 64749  
them. 64750

The director of mental health may adopt rules establishing 64751  
the method to be used to determine the amount an eligible 64752  
individual will receive under the program. The amount the general 64753  
assembly appropriates for the program may be a factor included in 64754  
the method that director establishes. 64755

~~(E)~~(F) The county department of job and family services of 64756  
the county in which an applicant for the residential state 64757  
supplement program resides shall determine whether the applicant 64758  
meets income and resource requirements for the program. 64759

~~(F)~~(G) The department of mental health shall maintain a 64760  
waiting list of any individuals eligible for payments under this 64761  
section but not receiving them because moneys appropriated to the 64762  
department for the purposes of this section are insufficient to 64763  
make payments to all eligible individuals. An individual may apply 64764  
to be placed on the waiting list even though the individual does 64765  
not reside in one of the homes or facilities specified in division 64766  
~~(C)~~(D)(1) of this section at the time of application. The director 64767  
of mental health, by rules adopted in accordance with Chapter 119. 64768  
of the Revised Code, may specify procedures and requirements for 64769  
placing an individual on the waiting list and priorities for the 64770  
order in which individuals placed on the waiting list are to begin 64771  
to receive residential state supplement payments. The rules 64772  
specifying priorities may give priority to individuals placed on 64773  
the waiting list on or after July 1, 2006, who receive 64774  
supplemental security income benefits under Title XVI of the 64775  
"Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as 64776  
amended. The rules shall not affect the place on the waiting list 64777

of any person who was on the list on July 1, 2006. The rules 64778  
specifying priorities may also set additional priorities based on 64779  
living arrangement, such as whether an individual resides in a 64780  
facility listed in division ~~(C)~~(D)(1) of this section or has been 64781  
admitted to a nursing facility. 64782

~~(G)~~(H) An individual in a licensed or certified living 64783  
arrangement receiving state supplementation on November 15, 1990, 64784  
under former section 5101.531 of the Revised Code shall not become 64785  
ineligible for payments under this section solely by reason of the 64786  
individual's living arrangement as long as the individual remains 64787  
in the living arrangement in which the individual resided on 64788  
November 15, 1990. 64789

~~(H)~~(I) The department of mental health shall notify each 64790  
person denied approval for payments under this section of the 64791  
person's right to a hearing. On request, the hearing shall be 64792  
provided in accordance with Chapter 119. of the Revised Code. 64793

**Sec. 5119.691.** ~~(A) As used in this section:~~ 64794

~~"Long term care consultation program" means the program the 64795  
department of aging is required to develop under section 173.42 of 64796  
the Revised Code.~~ 64797

~~"Long term care consultation program administrator" or 64798  
"administrator" means the department of aging or, if the 64799  
department contracts with an area agency on aging or other entity 64800  
to administer the long term care consultation program for a 64801  
particular area, that agency or entity.~~ 64802

~~"Nursing facility" has the same meaning as in section 5111.20 64803  
of the Revised Code.~~ 64804

~~"Residential state supplement administrative agency" means an 64805  
entity designated as such by the department of mental health under 64806  
section 5119.69 of the Revised Code.~~ 64807

~~"Residential state supplement program" means the program administered pursuant to section 5119.69 of the Revised Code.~~ 64808  
64809

~~(B)~~ On a periodic schedule determined by the department of mental health, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the agency serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. If a residential state supplement administrative agency determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If the administrator determines that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, the administrator shall so notify the department of mental health. On receipt of the notice from the administrator, the department of mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division ~~(F)~~(G) of section 5119.69 of the Revised Code. Each quarter, the department of mental health shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of individuals in the program pursuant to this section. 64810  
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**Sec. 5119.99.** ~~(A)~~ Whoever violates section 5119.21 of the Revised Code is guilty of a misdemeanor of the first degree. 64837  
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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.~~

~~(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.~~

**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.

(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.

(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 programming required by the department under division (B) of this section, the department shall release the offender to ~~supervised~~ release post-release control under one or more post-release

control sanctions after the offender has served each mandatory 64870  
prison term to which the offender was sentenced, if any, and a 64871  
minimum of eighty per cent of the aggregated nonmandatory prison 64872  
terms to which the offender was sentenced. The placement under 64873  
post-release control sanctions shall be under terms set by the 64874  
parole board in accordance with section 2967.28 of the Revised 64875  
Code and shall be subject to the provisions of that section and 64876  
sections 2929.141 and 2967.15 of the Revised Code regarding 64877  
violation of post-release control sanctions. No mandatory prison 64878  
term shall be reduced by, or as a result of, an offender's service 64879  
of a risk reduction sentence. The department shall notify the 64880  
sentencing court that the offender has successfully completed the 64881  
terms of the risk reduction sentence at least thirty days prior to 64882  
the date upon which the offender is to be released. 64883

(D) As used in this section: 64884

(1) "Mandatory prison term" has the same meaning as in 64885  
section 2929.01 of the Revised Code. 64886

(2) "Nonmandatory prison term" means a prison term that is 64887  
not a mandatory prison term. 64888

(3) "Post-release control" and "post-release control 64889  
sanction" have the same meanings as in section 2967.01 of the 64890  
Revised Code. 64891

**Sec. 5120.105.** (A) ~~The department of administrative services~~ 64892  
Ohio facilities construction commission shall provide for the 64893  
construction of a halfway house facility in conformity with 64894  
Chapter 153. of the Revised Code, except that construction 64895  
services may be provided by the department of rehabilitation and 64896  
correction. 64897

(B) The director of rehabilitation and correction may enter 64898  
into an agreement with a halfway house organization for the 64899

management of a halfway house facility. The halfway house 64900  
organization that occupies, will occupy, or is responsible for the 64901  
management of a halfway house facility shall pay the costs of 64902  
management of and general building services for the halfway house 64903  
facility as provided in an agreement between the department of 64904  
rehabilitation and correction and the halfway house organization. 64905

(C) No state funds, including state bond proceeds, shall be 64906  
spent on the construction of a halfway house facility under 64907  
sections 5120.102 to 5120.105 of the Revised Code, unless the 64908  
general assembly has specifically authorized the spending of money 64909  
on, or has made an appropriation to the department of 64910  
rehabilitation and correction for, the construction of the halfway 64911  
house facility or rental payments relating to the financing of the 64912  
construction of that facility. An authorization to spend money or 64913  
an appropriation for planning a halfway house facility does not 64914  
constitute an authorization to spend money on, or an appropriation 64915  
for, the construction of that facility. Capital funds for the 64916  
construction of halfway house facilities under sections 5120.102 64917  
to 5120.105 of the Revised Code shall be paid from the adult 64918  
correctional building fund created in division (F) of section 64919  
154.24 of the Revised Code. 64920

**Sec. 5120.132.** (A) There is hereby created in the state 64921  
treasury the prisoner programs fund. The director of 64922  
rehabilitation and correction shall deposit in the fund all moneys 64923  
received by the department from commissions on telephone systems 64924  
established for the use of prisoners and services provided to 64925  
prisoners in relation to electronic mail, prisoner trust fund 64926  
deposits, and the purchase of music, digital music players, and 64927  
other electronic devices. The money in the fund shall be used only 64928  
to pay for the costs of the following: 64929

(1) The purchase of material, supplies, and equipment used in 64930

any library program, educational program, religious program, 64931  
recreational program, or pre-release program operated by the 64932  
department for the benefit of prisoners; 64933

(2) The construction, alteration, repair, or reconstruction 64934  
of buildings and structures owned by the department for use in any 64935  
library program, educational program, religious program, 64936  
recreational program, or pre-release program operated by the 64937  
department for the benefit of prisoners; 64938

(3) The payment of salary, wages, and other compensation to 64939  
employees of the department who are employed in any library 64940  
program, educational program, religious program, recreational 64941  
program, or pre-release program operated by the department for the 64942  
benefit of prisoners; 64943

(4) The compensation to vendors that contract with the 64944  
department for the provision of services for the benefit of 64945  
prisoners in any library program, educational program, religious 64946  
program, recreational program, or pre-release program operated by 64947  
the department; 64948

(5) The payment of prisoner release payments in an 64949  
appropriate amount as determined pursuant to rule; 64950

(6) The purchase of other goods and the payment of other 64951  
services that are determined, in the discretion of the director, 64952  
to be goods and services that may provide additional benefit to 64953  
prisoners. 64954

(B) The director shall establish rules for the operation of 64955  
the prisoner programs fund. 64956

**Sec. 5120.66.** (A) Within ninety days after November 23, 2005, 64957  
but not before January 1, 2006, the department of rehabilitation 64958  
and correction shall establish and operate on the internet a 64959  
database that contains all of the following: 64960

(1) For each inmate in the custody of the department under a sentence imposed for a conviction of or plea of guilty to any offense, all of the following information:

(a) The inmate's name;

(b) For each offense for which the inmate was sentenced to a prison term or term of imprisonment and is in the department's custody, the name of the offense, the Revised Code section of which the offense is a violation, the gender of each victim of the offense if those facts are known, whether each victim of the offense was an adult or child if those facts are known, the range of the possible prison terms or term of imprisonment that could have been imposed for the offense, the actual prison term or term of imprisonment imposed for the offense, the county in which the offense was committed, the date on which the inmate began serving the prison term or term of imprisonment imposed for the offense, and either the date on which the inmate will be eligible for parole relative to the offense if the prison term or term of imprisonment is an indefinite term or life term or the date on which the term ends if the prison term is a definite term;

(c) All of the following information that is applicable regarding the inmate:

(i) If known to the department prior to the conduct of any hearing for judicial release of the defendant pursuant to section 2929.20 of the Revised Code in relation to any prison term or term of imprisonment the inmate is serving for any offense or any hearing for release of the defendant pursuant to section 2967.19 of the Revised Code in relation to any such term, notice of the fact that the inmate will be having a hearing regarding a possible grant of judicial release or release, the date of the hearing, and the right of any person pursuant to division (J) of section 2929.20 or division (H) of section 2967.19 of the Revised Code, whichever is applicable, to submit to the court a written

statement regarding the possible judicial release or release. The 64993  
department also shall post notice of the filing submission to a 64994  
sentencing court of any ~~petition~~ recommendation for early release 64995  
of the inmate pursuant to section 2967.19 of the Revised Code, as 64996  
required by division (E) of that section. 64997

(ii) If the inmate is serving a prison term pursuant to 64998  
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 64999  
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 65000  
Code, prior to the conduct of any hearing pursuant to section 65001  
2971.05 of the Revised Code to determine whether to modify the 65002  
requirement that the inmate serve the entire prison term in a 65003  
state correctional facility in accordance with division (C) of 65004  
that section, whether to continue, revise, or revoke any existing 65005  
modification of that requirement, or whether to terminate the 65006  
prison term in accordance with division (D) of that section, 65007  
notice of the fact that the inmate will be having a hearing 65008  
regarding those determinations and of the date of the hearing; 65009

(iii) At least three weeks before the adult parole authority 65010  
recommends a pardon or commutation of sentence for the inmate or 65011  
at least three weeks prior to a hearing before the adult parole 65012  
authority regarding a grant of parole to the inmate in relation to 65013  
any prison term or term of imprisonment the inmate is serving for 65014  
any offense, notice of the fact that the inmate might be under 65015  
consideration for a pardon or commutation of sentence or will be 65016  
having a hearing regarding a possible grant of parole, of the date 65017  
of any hearing regarding a possible grant of parole, and of the 65018  
right of any person to submit a written statement regarding the 65019  
pending action; 65020

(iv) At least three weeks before the inmate is transferred to 65021  
transitional control under section 2967.26 of the Revised Code in 65022  
relation to any prison term or term of imprisonment the inmate is 65023  
serving for any offense, notice of the pendency of the transfer, 65024

of the date of the possible transfer, and of the right of any person to submit a statement regarding the possible transfer; 65025  
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(v) Prompt notice of the inmate's escape from any facility in which the inmate was incarcerated and of the capture of the inmate after an escape; 65027  
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(vi) Notice of the inmate's death while in confinement; 65030

(vii) Prior to the release of the inmate from confinement, notice of the fact that the inmate will be released, of the date of the release, and, if applicable, of the standard terms and conditions of the release; 65031  
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(viii) Notice of the inmate's judicial release pursuant to section 2929.20 of the Revised Code or release pursuant to section 2967.19 of the Revised Code. 65035  
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(2) Information as to where a person can send written statements of the types referred to in divisions (A)(1)(c)(i), (iii), and (iv) of this section. 65038  
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(B)(1) The department shall update the database required under division (A) of this section every twenty-four hours to ensure that the information it contains is accurate and current. 65041  
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(2) The database required under division (A) of this section is a public record open for inspection under section 149.43 of the Revised Code. The department shall make the database searchable by inmate name and by the county and zip code where the offender intends to reside after release from a state correctional institution if this information is known to the department. 65044  
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(3) The database required under division (A) of this section may contain information regarding inmates who are listed in the database in addition to the information described in that division. 65050  
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(4) No information included on the database required under 65054

division (A) of this section shall identify or enable the 65055  
identification of any victim of any offense committed by an 65056  
inmate. 65057

(C) The failure of the department to comply with the 65058  
requirements of division (A) or (B) of this section does not give 65059  
any rights or any grounds for appeal or post-conviction relief to 65060  
any inmate. 65061

(D) This section, and the related provisions of sections 65062  
2929.20, 2967.03, 2967.12, and 2967.26 of the Revised Code enacted 65063  
in the act in which this section was enacted, shall be known as 65064  
"Laura's Law." 65065

**Sec. 5122.31.** (A) All certificates, applications, records, 65066  
and reports made for the purpose of this chapter and sections 65067  
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 65068  
Code, other than court journal entries or court docket entries, 65069  
and directly or indirectly identifying a patient or former patient 65070  
or person whose hospitalization has been sought under this 65071  
chapter, shall be kept confidential and shall not be disclosed by 65072  
any person except: 65073

(1) If the person identified, or the person's legal guardian, 65074  
if any, or if the person is a minor, the person's parent or legal 65075  
guardian, consents, and if the disclosure is in the best interests 65076  
of the person, as may be determined by the court for judicial 65077  
records and by the chief clinical officer for medical records; 65078

(2) When disclosure is provided for in this chapter or 65079  
section 5123.60 of the Revised Code; 65080

(3) That hospitals, boards of alcohol, drug addiction, and 65081  
mental health services, and community mental health agencies may 65082  
release necessary medical information to insurers and other 65083  
third-party payers, including government entities responsible for 65084

processing and authorizing payment, to obtain payment for goods 65085  
and services furnished to the patient; 65086

(4) Pursuant to a court order signed by a judge; 65087

(5) That a patient shall be granted access to the patient's 65088  
own psychiatric and medical records, unless access specifically is 65089  
restricted in a patient's treatment plan for clear treatment 65090  
reasons; 65091

(6) That hospitals and other institutions and facilities 65092  
within the department of mental health may exchange psychiatric 65093  
records and other pertinent information with other hospitals, 65094  
institutions, and facilities of the department, and with community 65095  
mental health agencies and boards of alcohol, drug addiction, and 65096  
mental health services with which the department has a current 65097  
agreement for patient care or services. Records and information 65098  
that may be released pursuant to this division shall be limited to 65099  
medication history, physical health status and history, financial 65100  
status, summary of course of treatment in the hospital, summary of 65101  
treatment needs, and a discharge summary, if any. 65102

(7) That hospitals within the department, other institutions 65103  
and facilities within the department, hospitals licensed by the 65104  
department under section 5119.20 of the Revised Code, and 65105  
community mental health agencies may exchange psychiatric records 65106  
and other pertinent information with payers and other providers of 65107  
treatment and health services if the purpose of the exchange is to 65108  
facilitate continuity of care for a patient; 65109

(8) That a patient's family member who is involved in the 65110  
provision, planning, and monitoring of services to the patient may 65111  
receive medication information, a summary of the patient's 65112  
diagnosis and prognosis, and a list of the services and personnel 65113  
available to assist the patient and the patient's family, if the 65114  
patient's treating physician determines that the disclosure would 65115

be in the best interests of the patient. No such disclosure shall 65116  
be made unless the patient is notified first and receives the 65117  
information and does not object to the disclosure. 65118

(9) That community mental health agencies may exchange 65119  
psychiatric records and certain other information with the board 65120  
of alcohol, drug addiction, and mental health services and other 65121  
agencies in order to provide services to a person involuntarily 65122  
committed to a board. Release of records under this division shall 65123  
be limited to medication history, physical health status and 65124  
history, financial status, summary of course of treatment, summary 65125  
of treatment needs, and discharge summary, if any. 65126

(10) That information may be disclosed to the executor or the 65127  
administrator of an estate of a deceased patient when the 65128  
information is necessary to administer the estate; 65129

(11) That records in the possession of the Ohio historical 65130  
society may be released to the closest living relative of a 65131  
deceased patient upon request of that relative; 65132

(12) That information may be disclosed to staff members of 65133  
the appropriate board or to staff members designated by the 65134  
director of mental health for the purpose of evaluating the 65135  
quality, effectiveness, and efficiency of services and determining 65136  
if the services meet minimum standards. Information obtained 65137  
during such evaluations shall not be retained with the name of any 65138  
patient. 65139

(13) That records pertaining to the patient's diagnosis, 65140  
course of treatment, treatment needs, and prognosis shall be 65141  
disclosed and released to the appropriate prosecuting attorney if 65142  
the patient was committed pursuant to section 2945.38, 2945.39, 65143  
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 65144  
attorney designated by the board for proceedings pursuant to 65145  
involuntary commitment under this chapter. 65146

(14) That the department of mental health may exchange 65147  
psychiatric hospitalization records, other mental health treatment 65148  
records, and other pertinent information with the department of 65149  
rehabilitation and correction to ensure continuity of care for 65150  
inmates who are receiving mental health services in an institution 65151  
of the department of rehabilitation and correction and may 65152  
exchange psychiatric hospitalization records, other mental health 65153  
treatment records, and other pertinent information with boards of 65154  
alcohol, drug addiction, and mental health services and community 65155  
mental health agencies to ensure continuity of care for inmates or 65156  
offenders who are receiving mental health services in an 65157  
institution and are scheduled for release within six months. The 65158  
~~department shall not disclose those records unless the inmate is~~ 65159  
~~notified, receives the information, and does not object to the~~ 65160  
~~disclosure.~~ The release of records under this division is limited 65161  
to records regarding an inmate's or offender's medication history, 65162  
physical health status and history, summary of course of 65163  
treatment, summary of treatment needs, and a discharge summary, if 65164  
any. 65165

(15) That a community mental health agency that ceases to 65166  
operate may transfer to either a community mental health agency 65167  
that assumes its caseload or to the board of alcohol, drug 65168  
addiction, and mental health services of the service district in 65169  
which the patient resided at the time services were most recently 65170  
provided any treatment records that have not been transferred 65171  
elsewhere at the patient's request. 65172

(B) Before records are disclosed pursuant to divisions 65173  
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 65174  
records shall attempt to obtain the patient's consent for the 65175  
disclosure. No person shall reveal the contents of a medical 65176  
record of a patient except as authorized by law. 65177

(C) The managing officer of a hospital who releases necessary 65178

medical information under division (A)(3) of this section to allow 65179  
an insurance carrier or other third party payor to comply with 65180  
section 5121.43 of the Revised Code shall neither be subject to 65181  
criminal nor civil liability. 65182

**Sec. 5123.01.** As used in this chapter: 65183

(A) "Chief medical officer" means the licensed physician 65184  
appointed by the managing officer of an institution for the 65185  
mentally retarded with the approval of the director of 65186  
developmental disabilities to provide medical treatment for 65187  
residents of the institution. 65188

(B) "Chief program director" means a person with special 65189  
training and experience in the diagnosis and management of the 65190  
mentally retarded, certified according to division (C) of this 65191  
section in at least one of the designated fields, and appointed by 65192  
the managing officer of an institution for the mentally retarded 65193  
with the approval of the director to provide habilitation and care 65194  
for residents of the institution. 65195

(C) "Comprehensive evaluation" means a study, including a 65196  
sequence of observations and examinations, of a person leading to 65197  
conclusions and recommendations formulated jointly, with 65198  
dissenting opinions if any, by a group of persons with special 65199  
training and experience in the diagnosis and management of persons 65200  
with mental retardation or a developmental disability, which group 65201  
shall include individuals who are professionally qualified in the 65202  
fields of medicine, psychology, and social work, together with 65203  
such other specialists as the individual case may require. 65204

(D) "Education" means the process of formal training and 65205  
instruction to facilitate the intellectual and emotional 65206  
development of residents. 65207

(E) "Habilitation" means the process by which the staff of 65208

the institution assists the resident in acquiring and maintaining 65209  
those life skills that enable the resident to cope more 65210  
effectively with the demands of the resident's own person and of 65211  
the resident's environment and in raising the level of the 65212  
resident's physical, mental, social, and vocational efficiency. 65213  
Habilitation includes but is not limited to programs of formal, 65214  
structured education and training. 65215

(F) "Health officer" means any public health physician, 65216  
public health nurse, or other person authorized or designated by a 65217  
city or general health district. 65218

(G) "Home and community-based services" means medicaid-funded 65219  
home and community-based services specified in division (B)(1) of 65220  
section 5111.87 of the Revised Code provided under the medicaid 65221  
waiver components the department of developmental disabilities 65222  
administers pursuant to section 5111.871 of the Revised Code. 65223  
~~However~~ Except as provided in section 5123.0412 of the Revised 65224  
Code, home and community-based services provided under the 65225  
medicaid waiver component known as the transitions developmental 65226  
disabilities waiver are to be considered to be home and 65227  
community-based services for the purposes of this chapter only to 65228  
the extent, if any, provided by the contract required by section 65229  
5111.871 of the Revised Code regarding the waiver. 65230

(H) "Indigent person" means a person who is unable, without 65231  
substantial financial hardship, to provide for the payment of an 65232  
attorney and for other necessary expenses of legal representation, 65233  
including expert testimony. 65234

(I) "Institution" means a public or private facility, or a 65235  
part of a public or private facility, that is licensed by the 65236  
appropriate state department and is equipped to provide 65237  
residential habilitation, care, and treatment for the mentally 65238  
retarded. 65239

(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.

(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.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(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.

(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.

(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:

(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 needs is not available in the community;

(2) The person needs and is susceptible to significant

habilitation in an institution. 65271

(P) "A person who is at least moderately mentally retarded" 65272  
means a person who is found, following a comprehensive evaluation, 65273  
to be impaired in adaptive behavior to a moderate degree and to be 65274  
functioning at the moderate level of intellectual functioning in 65275  
accordance with standard measurements as recorded in the most 65276  
current revision of the manual of terminology and classification 65277  
in mental retardation published by the American association on 65278  
mental retardation. 65279

(Q) As used in this division, "substantial functional 65280  
limitation," "developmental delay," and "established risk" have 65281  
the meanings established pursuant to section 5123.011 of the 65282  
Revised Code. 65283

"Developmental disability" means a severe, chronic disability 65284  
that is characterized by all of the following: 65285

(1) It is attributable to a mental or physical impairment or 65286  
a combination of mental and physical impairments, other than a 65287  
mental or physical impairment solely caused by mental illness as 65288  
defined in division (A) of section 5122.01 of the Revised Code. 65289

(2) It is manifested before age twenty-two. 65290

(3) It is likely to continue indefinitely. 65291

(4) It results in one of the following: 65292

(a) In the case of a person under three years of age, at 65293  
least one developmental delay or an established risk; 65294

(b) In the case of a person at least three years of age but 65295  
under six years of age, at least two developmental delays or an 65296  
established risk; 65297

(c) In the case of a person six years of age or older, a 65298  
substantial functional limitation in at least three of the 65299  
following areas of major life activity, as appropriate for the 65300

person's age: self-care, receptive and expressive language, 65301  
learning, mobility, self-direction, capacity for independent 65302  
living, and, if the person is at least sixteen years of age, 65303  
capacity for economic self-sufficiency. 65304

(5) It causes the person to need a combination and sequence 65305  
of special, interdisciplinary, or other type of care, treatment, 65306  
or provision of services for an extended period of time that is 65307  
individually planned and coordinated for the person. 65308

(R) "Developmentally disabled person" means a person with a 65309  
developmental disability. 65310

(S) "State institution" means an institution that is 65311  
tax-supported and under the jurisdiction of the department. 65312

(T) "Residence" and "legal residence" have the same meaning 65313  
as "legal settlement," which is acquired by residing in Ohio for a 65314  
period of one year without receiving general assistance prior to 65315  
July 17, 1995, under former Chapter 5113. of the Revised Code, 65316  
financial assistance under Chapter 5115. of the Revised Code, or 65317  
assistance from a private agency that maintains records of 65318  
assistance given. A person having a legal settlement in the state 65319  
shall be considered as having legal settlement in the assistance 65320  
area in which the person resides. No adult person coming into this 65321  
state and having a spouse or minor children residing in another 65322  
state shall obtain a legal settlement in this state as long as the 65323  
spouse or minor children are receiving public assistance, care, or 65324  
support at the expense of the other state or its subdivisions. For 65325  
the purpose of determining the legal settlement of a person who is 65326  
living in a public or private institution or in a home subject to 65327  
licensing by the department of job and family services, the 65328  
department of mental health, or the department of developmental 65329  
disabilities, the residence of the person shall be considered as 65330  
though the person were residing in the county in which the person 65331  
was living prior to the person's entrance into the institution or 65332

home. Settlement once acquired shall continue until a person has 65333  
been continuously absent from Ohio for a period of one year or has 65334  
acquired a legal residence in another state. A woman who marries a 65335  
man with legal settlement in any county immediately acquires the 65336  
settlement of her husband. The legal settlement of a minor is that 65337  
of the parents, surviving parent, sole parent, parent who is 65338  
designated the residential parent and legal custodian by a court, 65339  
other adult having permanent custody awarded by a court, or 65340  
guardian of the person of the minor, provided that: 65341

65342

(1) A minor female who marries shall be considered to have 65343  
the legal settlement of her husband and, in the case of death of 65344  
her husband or divorce, she shall not thereby lose her legal 65345  
settlement obtained by the marriage. 65346

(2) A minor male who marries, establishes a home, and who has 65347  
resided in this state for one year without receiving general 65348  
assistance prior to July 17, 1995, under former Chapter 5113. of 65349  
the Revised Code, financial assistance under Chapter 5115. of the 65350  
Revised Code, or assistance from a private agency that maintains 65351  
records of assistance given shall be considered to have obtained a 65352  
legal settlement in this state. 65353

(3) The legal settlement of a child under eighteen years of 65354  
age who is in the care or custody of a public or private child 65355  
caring agency shall not change if the legal settlement of the 65356  
parent changes until after the child has been in the home of the 65357  
parent for a period of one year. 65358

No person, adult or minor, may establish a legal settlement 65359  
in this state for the purpose of gaining admission to any state 65360  
institution. 65361

(U)(1) "Resident" means, subject to division (R)(2) of this 65362  
section, a person who is admitted either voluntarily or 65363

involuntarily to an institution or other facility pursuant to 65364  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 65365  
Code subsequent to a finding of not guilty by reason of insanity 65366  
or incompetence to stand trial or under this chapter who is under 65367  
observation or receiving habilitation and care in an institution. 65368

(2) "Resident" does not include a person admitted to an 65369  
institution or other facility under section 2945.39, 2945.40, 65370  
2945.401, or 2945.402 of the Revised Code to the extent that the 65371  
reference in this chapter to resident, or the context in which the 65372  
reference occurs, is in conflict with any provision of sections 65373  
2945.37 to 2945.402 of the Revised Code. 65374

(V) "Respondent" means the person whose detention, 65375  
commitment, or continued commitment is being sought in any 65376  
proceeding under this chapter. 65377

(W) "Working day" and "court day" mean Monday, Tuesday, 65378  
Wednesday, Thursday, and Friday, except when such day is a legal 65379  
holiday. 65380

(X) "Prosecutor" means the prosecuting attorney, village 65381  
solicitor, city director of law, or similar chief legal officer 65382  
who prosecuted a criminal case in which a person was found not 65383  
guilty by reason of insanity, who would have had the authority to 65384  
prosecute a criminal case against a person if the person had not 65385  
been found incompetent to stand trial, or who prosecuted a case in 65386  
which a person was found guilty. 65387

(Y) "Court" means the probate division of the court of common 65388  
pleas. 65389

(Z) "Supported living" and "residential services" have the 65390  
same meanings as in section 5126.01 of the Revised Code. 65391

**Sec. 5123.033.** The program fee fund is hereby created in the 65392  
state treasury. All fees collected pursuant to sections 5123.161, 65393

5123.164, and 5123.19, ~~and 5126.25~~ of the Revised Code shall be 65394  
credited to the fund. Money credited to the fund shall be used 65395  
solely for the department of developmental disabilities' duties 65396  
under sections 5123.16 to ~~5123.169~~ 5123.1610, and 5123.19, ~~and~~ 65397  
~~5126.25~~ of the Revised Code and to provide continuing education 65398  
and professional training to ~~employees of county boards of~~ 65399  
~~developmental disabilities for the purpose of section 5126.25 of~~ 65400  
~~the Revised Code and other~~ providers of services to individuals 65401  
with mental retardation or a developmental disability. If the 65402  
money credited to the fund is inadequate to pay all of the 65403  
department's costs in performing those duties and providing the 65404  
continuing education and professional training, the department may 65405  
use other available funds appropriated to the department to pay 65406  
the remaining costs of performing those duties and providing the 65407  
continuing education and professional training. 65408

**Sec. 5123.042.** ~~(A) The~~ Except as provided in section 5123.197 65409  
of the Revised Code, each person or government entity seeking to 65410  
develop new or modify existing residential services shall submit 65411  
to the department of developmental disabilities a plan for the 65412  
development or modification. The department shall approve a plan 65413  
that is submitted in accordance with rules adopted under this 65414  
section and meets the uniform standards for plans established in 65415  
those rules. 65416

The director of developmental disabilities shall adopt rules 65417  
in accordance with Chapter 119. of the Revised Code establishing 65418  
the following: 65419

~~(1)~~ (A) Procedures for submitting plans under this section; 65420

(B) Uniform standards ~~under which:~~ 65421

~~(a) A person or agency shall submit plans to the county board~~ 65422  
~~of developmental disabilities for the development of residential~~ 65423  
~~services for individuals with mental retardation or a~~ 65424

~~developmental disability within the county;~~ 65425

~~(b) The county board must review the plans and recommend providers for the services for the plans.~~ 65426  
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~~(2) The eligibility criteria for selecting persons and agencies to provide residential services, which shall take into consideration the recommendations of the county board.~~ 65428  
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~~(B) The county board, in accordance with its comprehensive service plan, shall review all proposals for the development of residential services that are submitted to it and shall, if the proposals are acceptable to the county board, recommend providers for the development of residential services within the county. The department shall approve proposals for the development of residential services within counties based upon the availability of funds and in accordance with rules adopted under division (A)(2) of this section.~~ 65431  
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~~No county board shall recommend providers for the development of residential services if the county board is an applicant to provide services. In cases of possible conflict of interest, the director shall appoint a committee that shall, in accordance with the approved county comprehensive service plan, review and recommend to the director providers for the services.~~ 65440  
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~~If a county board fails to establish an approved comprehensive service plan, the director may establish residential services development goals for the county board based on documented need as determined by the department. If a county board fails to develop or implement such a plan in accordance with the rules adopted under this section, the department may, without the involvement of the county board, review and select providers for the development of residential services in the county.~~ 65446  
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**Sec. 5123.044.** The department of developmental disabilities 65454

shall determine whether county boards of developmental 65455  
disabilities are ~~in compliance with~~ violate the rights that 65456  
individuals with mental retardation or other developmental 65457  
disabilities have under section 5126.046 of the Revised Code to 65458  
obtain home and community-based services, nonmedicaid residential 65459  
services, or nonmedicaid supported living from qualified and 65460  
willing providers. The department shall provide assistance to an 65461  
individual with mental retardation or other developmental 65462  
disability who requests assistance with the individual's ~~right~~ 65463  
~~rights~~ under ~~that~~ section ~~5126.046 of the Revised Code to choose a~~ 65464  
~~provider of habilitation, vocational, community employment,~~ 65465  
~~residential, or supported living services~~ if the department is 65466  
notified of a county board's alleged violation of the individual's 65467  
~~right to choose such a provider~~ rights under that section. 65468

**Sec. 5123.0412.** (A) The department of developmental 65469  
disabilities shall charge each county board of developmental 65470  
disabilities an annual fee equal to one and one-quarter per cent 65471  
of the total value of all medicaid paid claims for home and 65472  
community-based services provided during the year to an individual 65473  
eligible for services from the county board. However, the 65474  
department shall not charge the fee for home and community-based 65475  
services provided under the medicaid waiver component known as the 65476  
transitions developmental disabilities waiver. No county board 65477  
shall pass the cost of a fee charged to the county board under 65478  
this section on to another provider of these services. 65479

(B) The fees collected under this section shall be deposited 65480  
into the ODDD administration and oversight fund and the ODJFS 65481  
administration and oversight fund, both of which are hereby 65482  
created in the state treasury. The portion of the fees to be 65483  
deposited into the ODDD administration and oversight fund and the 65484  
portion of the fees to be deposited into the ODJFS administration 65485  
and oversight fund shall be the portion specified in an 65486

interagency agreement entered into under division (C) of this section. The department of developmental disabilities shall use the money in the ODDD administration and oversight fund and the department of job and family services shall use the money in the ODJFS administration and oversight fund for both of the following purposes:

(1) Medicaid administrative costs, including administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs of medicaid case management services and home and community-based services shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:

- (a) Eligibility determinations;
- (b) Training;
- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties the departments identify.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:

(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose

costs are paid for with money in the ODDD administration and 65517  
oversight fund and the ODJFS administration and oversight fund. 65518

(D) The departments shall submit an annual report to the 65519  
director of budget and management certifying how the departments 65520  
spent the money in the ODDD administration and oversight fund and 65521  
the ODJFS administration and oversight fund for the purposes 65522  
specified in division (B) of this section. 65523

**Sec. 5123.0414.** (A) When the director of developmental 65524  
disabilities, under section 119.07 of the Revised Code, sends a 65525  
party a notice by registered mail, return receipt requested, that 65526  
the director intends to take action against the party authorized 65527  
by section ~~5123.082~~, 5123.166, 5123.168, 5123.19, 5123.45, 65528  
5123.51, or 5126.25 of the Revised Code and the notice is returned 65529  
to the director with an endorsement indicating that the notice was 65530  
refused or unclaimed, the director shall resend the notice by 65531  
ordinary mail to the party. 65532

(B) If the original notice was refused, the notice shall be 65533  
deemed received as of the date the director resends the notice. 65534

(C) If the original notice was unclaimed, the notice shall be 65535  
deemed received as of the date the director resends the notice 65536  
unless, not later than thirty days after the date the director 65537  
sent the original notice, the resent notice is returned to the 65538  
director for failure of delivery. 65539

If the notice concerns taking action under section 5123.51 of 65540  
the Revised Code and the resent notice is returned to the director 65541  
for failure of delivery not later than thirty days after the date 65542  
the director sent the original notice, the director shall cause 65543  
the notice to be published in a newspaper of general circulation 65544  
in the county of the party's last known residence or business and 65545  
shall mail a dated copy of the published notice to the party at 65546  
the last known address. The notice shall be deemed received as of 65547

the date of the publication. 65548

If the notice concerns taking action under section ~~5123.082,~~ 65549  
5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised 65550  
Code and the resent notice is returned to the director for failure 65551  
of delivery not later than thirty days after the date the director 65552  
sent the original notice, the director shall resend the notice to 65553  
the party a second time. The notice shall be deemed received as of 65554  
the date the director resends the notice the second time. 65555

**Sec. 5123.0415.** ~~As used in this section, "license" means a~~ 65556  
~~license, certificate, or evidence of registration.~~ 65557

Each person and each government entity that applies for or 65558  
holds a valid license, certification, or registration issued under 65559  
section ~~5123.082,~~ 5123.161, 5123.19, 5123.45, or 5126.25, ~~or~~ 65560  
~~5126.252~~ of the Revised Code shall notify the director of 65561  
developmental disabilities of any change in the ~~person~~ person's or 65562  
government entity's address. 65563

**Sec. 5123.081.** (A) As used in this section: 65564

(1)(a) "Applicant" means a any of the following: 65565

(i) A person who is under final consideration for appointment 65566  
to or employment with the department of developmental 65567  
disabilities, ~~including, but not limited to, a~~ or a county board 65568  
of developmental disabilities; 65569

(ii) A person who is being transferred to the department and 65570  
~~an~~ or a county board; 65571

(iii) An employee who is being recalled to or reemployed by 65572  
the department or a county board after a layoff; 65573

(iv) A person under final consideration for a direct services 65574  
position with a provider or subcontractor. 65575

(b) Neither of the following is an applicant: 65576

(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; 65577  
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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. 65584  
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 65589  
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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. 65591  
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(4) "Disqualifying offense" means any of the following: 65595

(a) One or more violations of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 65596  
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2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 65608  
2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 65609  
2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 65610  
2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 65611  
2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 65612  
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 65613

(b) One or more violations of section 2905.04 of the Revised 65614  
Code as it existed prior to July 1, 1996; 65615

(c) One or more violations of section 2919.23 of the Revised 65616  
Code that would have been a violation of section 2905.04 of the 65617  
Revised Code as it existed prior to July 1, 1996, had the 65618  
violation occurred prior to that date; 65619

(d) One violation of section 2925.11 of the Revised Code that 65620  
is not a minor drug possession offense; 65621

(e) Two or more violations of section 2925.11 of the Revised 65622  
Code, regardless of whether any of the violations are a minor drug 65623  
possession offense; 65624

(f) One or more violations of felonious sexual penetration 65625  
under former section 2907.12 of the Revised Code; 65626

(g) One or more violations of section 2923.01, 2923.02, or 65627  
2923.03 of the Revised Code when the underlying offense that is 65628  
the object of the conspiracy, attempt, or complicity is one of the 65629  
offenses listed in divisions (A)(4)(a) to (f) of this section; 65630

(h) One or more felonies contained in the Revised Code that 65631  
are not listed in divisions (A)(4)(a) to (g) of this section, if 65632  
the felony bears a direct and substantial relationship to the 65633  
duties and responsibilities of the position being filled; 65634

(i) One or more offenses contained in the Revised Code 65635  
constituting a misdemeanor of the first degree on the first 65636  
offense and a felony on a subsequent offense, if the offense bears 65637

a direct and substantial relationship to the position being filled 65638  
and the nature of the services being provided by the responsible 65639  
entity; 65640

(j) One or more violations of an existing or former municipal 65641  
ordinance or law of this state, any other state, or the United 65642  
States, if the offense is substantially equivalent to any of the 65643  
offenses listed or described in divisions (A)(4)(a) to (i) of this 65644  
section. 65645

(5)(a) "Employee" means either of the following: 65646

(i) A person appointed to or employed by the department of 65647  
developmental disabilities or a county board of developmental 65648  
disabilities; 65649

(ii) A person employed in a direct services position by a 65650  
provider or subcontractor. 65651

(b) "Employee" does not mean a person who provides only 65652  
respite care under a family support services program established 65653  
under section 5126.11 of the Revised Code if a family member of 65654  
the individual with mental retardation or a developmental 65655  
disability who receives the respite care selected the person. 65656

(6) "Minor drug possession offense" has the same meaning as 65657  
in section 2925.01 of the Revised Code. 65658

(7) "Provider" means a person that provides specialized 65659  
services to individuals with mental retardation or a developmental 65660  
disability and employs one or more persons in direct services 65661  
positions. 65662

(8) "Responsible entity" means the following: 65663

(a) The department of developmental disabilities in the case 65664  
of either of the following: 65665

(i) A person who is an applicant because the person is under 65666  
final consideration for appointment to or employment with the 65667

department, being transferred to the department, or being recalled to or reemployed by the department after a layoff; 65668  
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(ii) A person who is an employee because the person is appointed to or employed by the department. 65670  
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(b) A county board of developmental disabilities in the case of either of the following: 65672  
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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; 65674  
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(ii) A person who is an employee because the person is appointed to or employed by the county board. 65678  
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(c) A provider in the case of either of the following: 65680

(i) A person who is an applicant because the person is under final consideration for a direct services position with the provider; 65681  
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(ii) A person who is an employee because the person is employed in a direct services position by the provider. 65684  
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(d) A subcontractor in the case of either of the following: 65686

(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor; 65687  
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(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor. 65690  
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(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. If there is a question as to whether a provider or subcontractor is providing specialized 65692  
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services, the provider or subcontractor may request that the 65698  
director of developmental disabilities make a determination. The 65699  
director's determination is final. 65700

(10) "Subcontractor" means a person to which both of the 65701  
following apply: 65702

(a) The person has either of the following: 65703

(i) A subcontract with a provider to provide specialized 65704  
services included in the contract between the provider and the 65705  
department of developmental disabilities or a county board of 65706  
developmental disabilities; 65707

(ii) A subcontract with another subcontractor to provide 65708  
specialized services included in a subcontract between the other 65709  
subcontractor and a provider or other subcontractor. 65710

(b) The person employs one or more persons in direct services 65711  
positions. 65712

(B) ~~The director of developmental disabilities~~ A responsible 65713  
entity shall not employ an applicant or continue to employ an 65714  
employee if either of the following applies: 65715

(1) The applicant or employee fails to comply with division 65716  
(D)(3) of this section. 65717

(2) Except as provided in rules adopted under this section, 65718  
the applicant or employee is found by a criminal records check 65719  
required by this section to have been convicted of, pleaded guilty 65720  
to, or been found eligible for intervention in lieu of conviction 65721  
for a disqualifying offense. 65722

(C) Before employing an applicant in a position for which a 65723  
criminal records check is required by this section, a responsible 65724  
entity shall require the applicant to submit a statement with the 65725  
applicant's signature attesting that the applicant has not been 65726  
convicted of, pleaded guilty to, or been found eligible for 65727

intervention in lieu of conviction for a disqualifying offense. 65728  
The responsible entity also shall require the applicant to sign an 65729  
agreement under which the applicant agrees to notify the 65730  
responsible entity within fourteen calendar days if, while 65731  
employed by the responsible entity, the applicant is formally 65732  
charged with, is convicted of, pleads guilty to, or is found 65733  
eligible for intervention in lieu of conviction for a 65734  
disqualifying offense. The agreement shall provide that the 65735  
applicant's failure to provide the notification may result in 65736  
termination of the applicant's employment. 65737

(D)(1) As a condition of employing any applicant in a 65738  
position for which a criminal records check is required by this 65739  
section, a responsible entity shall request the superintendent of 65740  
the bureau of criminal identification and investigation to conduct 65741  
a criminal records check with respect to each applicant, except 65742  
that the director is not required to request a criminal records 65743  
check for an employee of the department who is being considered 65744  
for a different position or is returning after a leave of absence 65745  
or seasonal break in employment, as long as the director has no 65746  
reason to believe that the employee has committed any of the 65747  
offenses listed or described in division (E) of this section. 65748

If the of the applicant. If rules adopted under this section 65749  
require an employee to undergo a criminal records check, a 65750  
responsible entity shall request the superintendent to conduct a 65751  
criminal records check of the employee at times specified in the 65752  
rules as a condition of the responsible entity's continuing to 65753  
employ the employee in a position for which a criminal records 65754  
check is required by this section. If an applicant or employee 65755  
does not present proof that the applicant or employee has been a 65756  
resident of this state for the five-year period immediately prior 65757  
to the date upon which the criminal records check is requested, 65758  
the ~~director~~ responsible entity shall request that the 65759

superintendent ~~of the bureau~~ obtain information from the federal 65760  
bureau of investigation as a part of the criminal records check 65761  
~~for the applicant~~. If the applicant or employee presents proof 65762  
that the applicant or employee has been a resident of this state 65763  
for that five-year period, the ~~director~~ responsible entity may 65764  
request that the superintendent ~~of the bureau~~ include information 65765  
from the federal bureau of investigation in the criminal records 65766  
check. For purposes of this division, an applicant or employee may 65767  
provide proof of residency in this state by presenting, with a 65768  
notarized statement asserting that the applicant or employee has 65769  
been a resident of this state for that five-year period, a valid 65770  
driver's license, notification of registration as an elector, a 65771  
copy of an officially filed federal or state tax form identifying 65772  
the applicant's or employee's permanent residence, or any other 65773  
document the ~~director~~ responsible entity considers acceptable. 65774

~~(C) The director~~ (2) A responsible entity shall provide do 65775  
all of the following: 65776

(a) Provide to each applicant and employee for whom a 65777  
criminal records check is required by this section a copy of the 65778  
form prescribed pursuant to division (C)(1) of section 109.572 of 65779  
the Revised Code, ~~provide to each applicant~~ and a standard 65780  
impression sheet to obtain fingerprint impressions prescribed 65781  
pursuant to division (C)(2) of section 109.572 of the Revised 65782  
Code, ~~obtain;~~ 65783

(b) Obtain the completed form and standard impression sheet 65784  
from ~~each the~~ applicant, ~~and forward~~ or employee; 65785

(c) Forward the completed form and standard impression sheet 65786  
to the superintendent ~~of the bureau of criminal identification and~~ 65787  
~~investigation~~ at the time the criminal records check is requested. 65788

(3) Any applicant or employee who receives pursuant to this 65789  
division a copy of the form prescribed pursuant to division (C)(1) 65790

of section 109.572 of the Revised Code and a copy of ~~an~~ the 65791  
standard impression sheet prescribed pursuant to division (C)(2) 65792  
of that section and who is requested to complete the form and 65793  
provide a set of the applicant's or employee's fingerprint 65794  
impressions shall complete the form or provide all the information 65795  
necessary to complete the form and shall provide the ~~material~~ 65796  
standard impression sheet with the impressions of the applicant's 65797  
or employee's fingerprints. ~~If an applicant, upon request, fails~~ 65798  
~~to provide the information necessary to complete the form or fails~~ 65799  
~~to provide impressions of the applicant's fingerprints, the~~ 65800  
~~director shall not employ the applicant.~~ 65801

~~(D) The director~~ (4) A responsible entity shall pay to the 65802  
bureau of criminal identification and investigation the fee 65803  
prescribed pursuant to division (C)(3) of section 109.572 of the 65804  
Revised Code for each criminal records check requested and 65805  
conducted pursuant to this section. 65806

(E) A responsible entity may request any other state or 65807  
federal agency to supply the ~~director~~ responsible entity with a 65808  
written report regarding the criminal record of ~~each~~ an applicant 65809  
or employee. ~~With regard to an applicant who becomes a department~~ 65810  
~~employee, if the~~ If an employee holds an occupational or 65811  
professional license or other credentials, the ~~director~~ 65812  
responsible entity may request that the state or federal agency 65813  
that regulates the employee's occupation or profession supply the 65814  
~~director~~ responsible entity with a written report of any 65815  
information pertaining to the employee's criminal record that the 65816  
agency obtains in the course of conducting an investigation or in 65817  
the process of renewing the employee's license or other 65818  
credentials. The responsible entity may consider the reports when 65819  
determining whether to employ the applicant or to continue to 65820  
employ the employee. 65821

~~(E) Except as provided in division (K)(2) of this section and~~ 65822

~~in rules adopted by the director in accordance with division (M) 65823  
of this section, the director shall not employ a person to fill a 65824  
position with the department who has been convicted of or pleaded 65825  
guilty to any of the following: 65826~~

~~(1) A violation of section 2903.01, 2903.02, 2903.03, 65827  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 65828  
2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 65829  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 65830  
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 65831  
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 65832  
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 65833  
2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of 65834  
section 2905.04 of the Revised Code as it existed prior to July 1, 65835  
1996, a violation of section 2919.23 of the Revised Code that 65836  
would have been a violation of section 2905.04 of the Revised Code 65837  
as it existed prior to July 1, 1996, had the violation occurred 65838  
prior to that date, a violation of section 2925.11 of the Revised 65839  
Code that is not a minor drug possession offense, or felonious 65840  
sexual penetration in violation of former section 2907.12 of the 65841  
Revised Code; 65842~~

~~(2) A felony contained in the Revised Code that is not listed 65843  
in this division, if the felony bears a direct and substantial 65844  
relationship to the duties and responsibilities of the position 65845  
being filled; 65846~~

~~(3) Any offense contained in the Revised Code constituting a 65847  
misdemeanor of the first degree on the first offense and a felony 65848  
on a subsequent offense, if the offense bears a direct and 65849  
substantial relationship to the position being filled and the 65850  
nature of the services being provided by the department; 65851~~

~~(4) A violation of an existing or former municipal ordinance 65852  
or law of this state, any other state, or the United States, if 65853  
the offense is substantially equivalent to any of the offenses 65854~~

listed or described in division (E)(1), (2), or (3) of this section. 65855  
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~~(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.~~ 65857  
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~~(G) The director 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 requested and conducted pursuant to this~~ 65883  
65884  
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~~section. A responsible entity may employ an applicant  
conditionally pending receipt of a report regarding the applicant  
requested under this section. The responsible entity shall  
terminate the applicant's employment if it is determined from a  
report that the applicant failed to inform the responsible entity  
that the applicant had been convicted of, pleaded guilty to, or  
been found eligible for intervention in lieu of conviction for a  
disqualifying offense.~~

(H) A responsible entity may charge an applicant a fee for  
costs the responsible entity incurs in obtaining a report  
regarding the applicant under this section if the responsible  
entity notifies the applicant of the amount of the fee at the time  
of the applicant's initial application for employment and that,  
unless the fee is paid, the responsible entity will not consider  
the applicant for employment. The fee shall not exceed the amount  
of the fee, if any, the responsible entity pays for the report.

(I)(1) Any 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:

(a) The applicant or employee who is the subject of the  
records check or criminal records check report or the applicant's  
or employee's representative, the department;

(b) The responsible entity that requested the report or its  
representative, a county board of developmental disabilities, and  
any;

(c) The department if a county board, provider, or  
subcontractor is the responsible entity that requested the report  
and the department requests the responsible entity to provide a  
copy of the report to the department;

(d) A county board if a provider or subcontractor is the

responsible entity that requested the report and the county board 65918  
requests the responsible entity to provide a copy of the report to 65919  
the county board; 65920

(e) Any court, hearing officer, or other necessary individual 65921  
involved in a case dealing with ~~the~~ any of the following: 65922

(i) The denial of employment to the applicant or ~~the~~ 65923  
employee; 65924

(ii) The denial, suspension, or revocation of a certificate 65925  
~~or evidence of registration~~ under section ~~5123.082~~ 5123.166 or 65926  
5123.45 of the Revised Code; 65927

(iii) A civil or criminal action regarding the medicaid 65928  
program or a program the department administers. 65929

(2) An ~~individual~~ applicant or employee for whom ~~the director~~ 65930  
responsible entity has obtained reports under this section may 65931  
submit a written request to the ~~director~~ responsible entity to 65932  
have copies of the reports sent to any state agency, entity of 65933  
local government, or private entity. The ~~individual~~ applicant or 65934  
employee shall specify in the request the agencies or entities to 65935  
which the copies are to be sent. On receiving the request, the 65936  
~~director~~ responsible entity shall send copies of the reports to 65937  
the agencies or entities specified. 65938

~~The director~~ (3) A responsible entity may request that a 65939  
state agency, entity of local government, or private entity send 65940  
copies to the ~~director~~ responsible entity of any report regarding 65941  
a records check or criminal records check that the agency or 65942  
entity possesses, if the ~~director~~ responsible entity obtains the 65943  
written consent of the individual who is the subject of the 65944  
report. 65945

~~(I) The director shall request the registrar of motor~~ 65946  
~~vehicles to supply the director with a certified abstract~~ 65947  
~~regarding the record of convictions for violations of motor~~ 65948

~~vehicle laws of each applicant who will be required by the 65949  
applicant's employment to transport individuals with mental 65950  
retardation or a developmental disability or to operate the 65951  
department's vehicles for any other purpose. For each abstract 65952  
provided under this section, the director shall pay the amount 65953  
specified in section 4509.05 of the Revised Code. 65954~~

~~(J) The director (4) A responsible entity shall provide each 65955  
applicant and employee with a copy of any report ~~or abstract~~ 65956  
obtained about the applicant or employee under this section. 65957~~

~~(K)(1) The director shall inform each person, at the time of 65958  
the person's initial application for employment, that the person 65959  
is required to provide a set of impressions of the person's 65960  
fingerprints and that a criminal records check is required to be 65961  
conducted and satisfactorily completed in accordance with section 65962  
109.572 of the Revised Code if the person comes under final 65963  
consideration for employment as a precondition to employment in a 65964  
position. 65965~~

~~(2) The director may employ an applicant pending receipt of 65966  
reports requested under this section. The director shall terminate 65967  
employment of any such applicant if it is determined from the 65968  
reports that the applicant failed to inform the director that the 65969  
applicant had been convicted of or pleaded guilty to any of the 65970  
offenses listed or described in division (E) of this section. 65971~~

~~(L) The director may charge an applicant a fee for costs the 65972  
director incurs in obtaining reports, abstracts, or fingerprint 65973  
impressions under this section. A fee charged under this division 65974  
shall not exceed the amount of the fees the director pays under 65975  
divisions (G) and (I) of this section. If a fee is charged under 65976  
this division, the director shall notify the applicant of the 65977  
amount of the fee at the time of the applicant's initial 65978  
application for employment and that, unless the fee is paid, the 65979  
director will not consider the applicant for employment. 65980~~

~~(M)~~(J) The director of developmental disabilities shall adopt 65981  
rules in accordance with Chapter 119. of the Revised Code to 65982  
implement this section, ~~including rules specifying.~~ 65983

(1) The rules may do the following: 65984

(a) Require employees to undergo criminal records checks 65985  
under this section; 65986

(b) Require responsible entities to obtain the driving 65987  
records of employees under this section; 65988

(c) If the rules require employees to undergo criminal 65989  
records checks, require responsible entities to obtain the driving 65990  
records of employees, or both, exempt one or more classes of 65991  
employees from the requirements. 65992

(2) The rules shall do both of the following: 65993

(a) If the rules require employees to undergo criminal 65994  
records checks, require responsible entities to obtain the driving 65995  
records of employees, or both, specify the times at which the 65996  
criminal records checks are to be conducted and the driving 65997  
records are to be obtained; 65998

(b) Specify circumstances under which ~~the director~~ a 65999  
responsible entity may employ a ~~person who has an applicant or~~ 66000  
employee who is found by a criminal records check required by this 66001  
section to have been convicted of ~~or~~, pleaded guilty to ~~an~~, or 66002  
been found eligible for intervention in lieu of conviction for a 66003  
disqualifying offense listed ~~or described in division (E) of this~~ 66004  
section but ~~who~~ meets standards in regard to rehabilitation set by 66005  
the director. 66006

**Sec. 5123.16.** (A) As used in sections 5123.16 to ~~5123.169~~ 66007  
5123.1610 of the Revised Code: 66008

(1) "Applicant" means any of the following: 66009

(a) The chief executive officer of a business that applies under section 5123.161 of the Revised Code for a certificate to provide supported living; 66010  
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(b) The chief executive officer of a business that seeks renewal of the business's supported living certificate under section 5123.164 of the Revised Code; 66013  
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(c) An individual who applies under section 5123.161 of the Revised Code for a certificate to provide supported living as an independent provider; 66016  
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(d) An independent provider who seeks renewal of the independent provider's supported living certificate under section 5123.164 of the Revised Code. 66019  
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(2)(a) "Business" means either of the following: 66022

(i) An association, corporation, nonprofit organization, partnership, trust, or other group of persons; 66023  
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(ii) An individual who employs, directly or through contract, one or more other individuals to provide supported living. 66025  
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(b) "Business" does not mean an independent provider. 66027

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 66028  
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(4) "Disqualifying offense" means any of the following: 66030

(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, 66031  
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2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 66040  
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 66041  
2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 66042  
2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 66043  
2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 66044  
2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 66045  
2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 66046  
2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 66047  
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 66048

(b) One or more violations of section 2905.04 of the Revised 66049  
Code as it existed prior to July 1, 1996; 66050

(c) One or more violations of section 2919.23 of the Revised 66051  
Code that would have been a violation of section 2905.04 of the 66052  
Revised Code as it existed prior to July 1, 1996, had the 66053  
violation occurred prior to that date; 66054

(d) One violation of section 2925.11 of the Revised Code that 66055  
is not a minor drug possession offense; 66056

(e) Two or more violations of section 2925.11 of the Revised 66057  
Code, regardless of whether any of the violations are a minor drug 66058  
possession offense; 66059

(f) One or more violations of felonious sexual penetration 66060  
under former section 2907.12 of the Revised Code; 66061

(g) One or more violations of section 2923.01, 2923.02, or 66062  
2923.03 of the Revised Code when the underlying offense that is 66063  
the object of the conspiracy, attempt, or complicity is one of the 66064  
offenses listed in divisions (A)(4)(a) to (f) of this section; 66065

(h) One or more felonies contained in the Revised Code that 66066  
are not listed in divisions (A)(4)(a) to (g) of this section, if 66067  
the felony bears a direct and substantial relationship to the 66068  
duties and responsibilities of the position being filled; 66069

(i) One or more offenses contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the responsible entity; 66070  
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(j) One or more violations of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in divisions (A)(4)(a) to (i) of this section. 66076  
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(5) "Independent provider" means a provider who provides supported living on a self-employed basis and does not employ, directly or through contract, another individual to provide the supported living. 66081  
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(6) "Provider" means a person or government entity certified by the director of developmental disabilities to provide supported living. 66085  
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~~(2)~~(7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code. 66088  
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(8) "Related party" means any of the following: 66090

(a) In the case of a provider who is an individual, any of the following: 66091  
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(i) The spouse of the provider; 66093

(ii) A parent or stepparent of the provider or provider's spouse; 66094  
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(iii) A child of the provider or provider's spouse; 66096

(iv) A sibling, half sibling, or stepsibling of the provider or provider's spouse; 66097  
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(v) A grandparent of the provider or provider's spouse; 66099

|  |                         |
|--|-------------------------|
| (vi) A grandchild of the provider or provider's spouse;  | 66100                   |
| (vii) An employee or employer of the provider or provider's spouse.  | 66101<br>66102          |
| (b) In the case of a provider that is a person other than an individual, any of the following:                               | 66103<br>66104          |
| (i) An employee of the person;   | 66105                   |
| (ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer; | 66106<br>66107<br>66108 |
| (iii) A member of the provider's board of directors or trustees;   | 66109<br>66110          |
| (iv) A person owning a financial interest of five per cent or more in the provider;  | 66111<br>66112          |
| (v) A corporation that has a subsidiary relationship with the provider;  | 66113<br>66114          |
| (vi) A person or government entity that has control over the provider's day-to-day operation;                                | 66115<br>66116          |
| (vii) A person over which the provider has control of the day-to-day operation.  | 66117<br>66118          |
| (c) In the case of a provider that is a government entity, any of the following:   | 66119<br>66120          |
| (i) An employee of the provider;   | 66121                   |
| (ii) An officer of the provider;   | 66122                   |
| (iii) A member of the provider's governing board;  | 66123                   |
| (iv) A government entity that has control over the provider's day-to-day operation;  | 66124<br>66125          |
| (v) A person or government entity over which the provider has control of the day-to-day operation.                           | 66126<br>66127          |

(B) No person or government entity may provide supported living without a valid supported living certificate issued by the director of developmental disabilities.

(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.

**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.

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.

**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.

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 government entity.

**Sec. 5123.163.** A supported living certificate is valid for a 66157  
period of time established in rules adopted under section ~~5123.169~~ 66158  
5123.1610 of the Revised Code, unless any of the following occur 66159  
before the end of that period of time: 66160

(A) The director of developmental disabilities issues an 66161  
order requiring that action be taken against the certificate 66162  
holder under section 5123.166 of the Revised Code. 66163

(B) The director issues an order terminating the certificate 66164  
under section 5123.168 of the Revised Code. 66165

(C) The certificate holder voluntarily surrenders the 66166  
certificate to the director. 66167

**Sec. 5123.164.** Except as provided in ~~section~~ sections 66168  
5123.166 and 5123.169 of the Revised Code, the director of 66169  
developmental disabilities shall renew a supported living 66170  
certificate if the certificate holder follows the renewal process 66171  
established in rules adopted under section ~~5123.169~~ 5123.1610 of 66172  
the Revised Code, continues to meet the applicable certification 66173  
standards established in those rules, and pays the renewal fee 66174  
established in those rules. 66175

**Sec. 5123.166.** (A) If good cause exists as specified in 66176  
division (B) of this section and determined in accordance with 66177  
procedures established in rules adopted under section ~~5123.169~~ 66178  
5123.1610 of the Revised Code, the director of developmental 66179  
disabilities may issue an adjudication order requiring that one of 66180  
the following actions be taken against a person or government 66181  
entity seeking or holding a supported living certificate: 66182

(1) Refusal to issue or renew a supported living certificate; 66183

(2) Revocation of a supported living certificate; 66184

(3) Suspension of a supported living certificate holder's 66185

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|---|----------------------------------|
| authority to do either or both of the following:  | 66186                            |
| (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;                     | 66187<br>66188<br>66189<br>66190 |
| (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.                 | 66191<br>66192<br>66193<br>66194 |
| (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:                                 | 66195<br>66196<br>66197          |
| (1) The person or government entity's failure to meet or continue to meet the applicable certification standards established in rules adopted under section <del>5123.169</del> <u>5123.1610</u> of the Revised Code; | 66198<br>66199<br>66200<br>66201 |
| (2) The person or government entity violates section 5123.165 of the Revised Code;  | 66202<br>66203                   |
| (3) The person or government entity's failure to satisfy the requirements of section <u>5123.081</u> or 5123.52, <del>5126.28</del> , or <del>5126.281</del> of the Revised Code;                                     | 66204<br>66205<br>66206          |
| (4) Misfeasance;  | 66207                            |
| (5) Malfeasance;  | 66208                            |
| (6) Nonfeasance;  | 66209                            |
| (7) Confirmed abuse or neglect;   | 66210                            |
| (8) Financial irresponsibility;   | 66211                            |
| (9) Other conduct the director determines is or would be injurious to individuals who receive or would receive supported living from the person or government entity.   | 66212<br>66213<br>66214          |

(C) Except as provided in division (D) of this section, the director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code.

(D)(1) The director may issue an order requiring that action specified in division (A)(3) of this section be taken before a provider is provided notice and an opportunity for a hearing if all of the following are the case:

(a) The director determines such action is warranted by the provider's failure to continue to meet the applicable certification standards;

(b) The director determines that the failure either represents a pattern of serious noncompliance or creates a substantial risk to the health or safety of an individual who receives or would receive supported living from the provider;

(c) If the order will suspend the provider's authority to continue to provide supported living to an individual who receives supported living from the provider at the time the director issues the order, both of the following are the case:

(i) The director makes the individual, or the individual's guardian, aware of the director's determination under division (D)(1)(b) of this section and the individual or guardian does not select another provider.

(ii) A county board of developmental disabilities has filed a complaint with a probate court under section ~~5123.33~~ 5126.33 of the Revised Code that includes facts describing the nature of abuse or neglect that the individual has suffered due to the provider's actions that are the basis for the director making the determination under division (D)(1)(b) of this section and the probate court does not issue an order authorizing the county board to arrange services for the individual pursuant to an individualized service plan developed for the individual under

section ~~5123.31~~ 5126.31 of the Revised Code. 66246

(2) If the director issues an order under division (D)(1) of 66247  
this section, sections 119.091 to 119.13 of the Revised Code and 66248  
all of the following apply: 66249

(a) The director shall send the provider notice of the order 66250  
by registered mail, return receipt requested, not later than 66251  
twenty-four hours after issuing the order and shall include in the 66252  
notice the reasons for the order, the citation to the law or rule 66253  
directly involved, and a statement that the provider will be 66254  
afforded a hearing if the provider requests it within ten days of 66255  
the time of receiving the notice. 66256

(b) If the provider requests a hearing within the required 66257  
time and the provider has provided the director the provider's 66258  
current address, the director shall immediately set, and notify 66259  
the provider of, the date, time, and place for the hearing. 66260

(c) The date of the hearing shall be not later than thirty 66261  
days after the director receives the provider's timely request for 66262  
the hearing. 66263

(d) The hearing shall be conducted in accordance with section 66264  
119.09 of the Revised Code, except for all of the following: 66265

(i) The hearing shall continue uninterrupted until its close, 66266  
except for weekends, legal holidays, and other interruptions the 66267  
provider and director agree to. 66268

(ii) If the director appoints a referee or examiner to 66269  
conduct the hearing, the referee or examiner, not later than ten 66270  
days after the date the referee or examiner receives a transcript 66271  
of the testimony and evidence presented at the hearing or, if the 66272  
referee or examiner does not receive the transcript or no such 66273  
transcript is made, the date that the referee or examiner closes 66274  
the record of the hearing, shall submit to the director a written 66275  
report setting forth the referee or examiner's findings of fact 66276

and conclusions of law and a recommendation of the action the director should take. 66277  
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(iii) The provider may, not later than five days after the date the director, in accordance with section 119.09 of the Revised Code, sends the provider or the provider's attorney or other representative of record a copy of the referee or examiner's report and recommendation, file with the director written objections to the report and recommendation. 66279  
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(iv) The director shall approve, modify, or disapprove the referee or examiner's report and recommendation not earlier than six days, and not later than fifteen days, after the date the director, in accordance with section 119.09 of the Revised Code, sends a copy of the report and recommendation to the provider or the provider's attorney or other representative of record. 66285  
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(3) The director may lift an order issued under division (D)(1) of this section even though a hearing regarding the order is occurring or pending if the director determines that the provider has taken action eliminating the good cause for issuing the order. The hearing shall proceed unless the provider withdraws the request for the hearing in a written letter to the director. 66291  
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(4) The director shall lift an order issued under division (D)(1) of this section if both of the following are the case: 66297  
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(a) The provider provides the director a plan of compliance the director determines is acceptable. 66299  
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(b) The director determines that the provider has implemented the plan of compliance correctly. 66301  
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**Sec. 5123.169.** (A) The director of developmental disabilities shall not issue a supported living certificate to an applicant or renew an applicant's supported living certificate if either of the following applies: 66303  
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(1) The applicant fails to comply with division (C)(2) of this section; 66307  
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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. 66309  
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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. 66314  
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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 supported living certificate, the director shall require the applicant to request that the superintendent obtain information 66329  
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from the federal bureau of investigation as a part of the criminal 66339  
records check. If the applicant presents proof to the director 66340  
that the applicant has been a resident of this state for that 66341  
five-year period, the director may require the applicant to 66342  
request that the superintendent include information from the 66343  
federal bureau of investigation in the criminal records check. For 66344  
purposes of this division, an applicant may provide proof of 66345  
residency in this state by presenting, with a notarized statement 66346  
asserting that the applicant has been a resident of this state for 66347  
that five-year period, a valid driver's license, notification of 66348  
registration as an elector, a copy of an officially filed federal 66349  
or state tax form identifying the applicant's permanent residence, 66350  
or any other document the director considers acceptable. 66351

(2) Each applicant shall do all of the following: 66352

(a) Obtain a copy of the form prescribed pursuant to division 66353  
(C)(1) of section 109.572 of the Revised Code and a standard 66354  
impression sheet prescribed pursuant to division (C)(2) of section 66355  
109.572 of the Revised Code; 66356

(b) Complete the form and provide the applicant's fingerprint 66357  
impressions on the standard impression sheet; 66358

(c) Forward the completed form and standard impression sheet 66359  
to the superintendent at the time the criminal records check is 66360  
requested; 66361

(d) Instruct the superintendent to submit the completed 66362  
report of the criminal records check directly to the director; 66363

(e) Pay to the bureau of criminal identification and 66364  
investigation the fee prescribed pursuant to division (C)(3) of 66365  
section 109.572 of the Revised Code for each criminal records 66366  
check of the applicant requested and conducted pursuant to this 66367  
section. 66368

(D) The director may request any other state or federal 66369

agency to supply the director with a written report regarding the 66370  
criminal record of an applicant. The director may consider the 66371  
reports when determining whether to issue a supported living 66372  
certificate to the applicant or to renew an applicant's supported 66373  
living certificate. 66374

(E) An applicant who seeks to be an independent provider or 66375  
is an independent provider seeking renewal of the applicant's 66376  
supported living certificate shall obtain the applicant's driving 66377  
record from the bureau of motor vehicles and provide a copy of the 66378  
record to the director if the supported living that the applicant 66379  
will provide involves transporting individuals with mental 66380  
retardation or developmental disabilities. The director may 66381  
consider the applicant's driving record when determining whether 66382  
to issue the applicant a supported living certificate or to renew 66383  
the applicant's supported living certificate. 66384

(F)(1) A report obtained pursuant to this section is not a 66385  
public record for purposes of section 149.43 of the Revised Code 66386  
and shall not be made available to any person, other than the 66387  
following: 66388

(a) The applicant who is the subject of the report or the 66389  
applicant's representative; 66390

(b) The director or the director's representative; 66391

(c) Any court, hearing officer, or other necessary individual 66392  
involved in a case dealing with any of the following: 66393

(i) The denial of a supported living certificate or refusal 66394  
to renew a supported living certificate; 66395

(ii) The denial, suspension, or revocation of a certificate 66396  
under section 5123.45 of the Revised Code; 66397

(iii) A civil or criminal action regarding the medicaid 66398  
program. 66399

(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.

(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.

(4) The director shall provide each applicant with a copy of any report obtained about the applicant under this section.

**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:

(A) The extent to which a county board of developmental disabilities may provide supported living;

(B) The application process for obtaining a supported living certificate under section 5123.161 of the Revised Code;

(C) The certification standards a person or government entity must meet to obtain a supported living certificate to provide supported living;

(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;

(E) The period of time a supported living certificate is valid;

(F) The process for renewing a supported living certificate

under section 5123.164 of the Revised Code; 66430

(G) The renewal fee for a supported living certificate, which 66431  
shall be deposited into the program fee fund created under section 66432  
5123.033 of the Revised Code; 66433

(H) Procedures for conducting surveys under section 5123.162 66434  
of the Revised Code; 66435

(I) Procedures for determining whether there is good cause to 66436  
take action under section 5123.166 of the Revised Code against a 66437  
person or government entity seeking or holding a supported living 66438  
certificate; 66439

(J) Circumstances under which the director may issue a 66440  
supported living certificate to an applicant or renew an 66441  
applicant's supported living certificate if the applicant is found 66442  
by a criminal records check required by section 5123.169 of the 66443  
Revised Code to have been convicted of, pleaded guilty to, or been 66444  
found eligible for intervention in lieu of conviction for a 66445  
disqualifying offense but meets standards in regard to 66446  
rehabilitation set by the director. 66447

**Sec. 5123.171.** As used in this section, "respite care" means 66448  
appropriate, short-term, temporary care provided to a mentally 66449  
retarded or developmentally disabled person to sustain the family 66450  
structure or to meet planned or emergency needs of the family. 66451

The department of developmental disabilities shall provide 66452  
respite care services to persons with mental retardation or a 66453  
developmental disability for the purpose of promoting 66454  
self-sufficiency and normalization, preventing or reducing 66455  
inappropriate institutional care, and furthering the unity of the 66456  
family by enabling the family to meet the special needs of a 66457  
mentally retarded or developmentally disabled person. 66458

In order to be eligible for respite care services under this 66459

section, the mentally retarded or developmentally disabled person 66460  
must be in need of habilitation services as defined in section 66461  
5126.01 of the Revised Code. 66462

Respite care may be provided in a residential facility 66463  
licensed under section 5123.19 of the Revised Code ~~or (including a~~ 66464  
residential facility certified as an intermediate care facility 66465  
for the mentally retarded under Title XIX of the "Social Security 66466  
Act," 49 79 Stat. ~~620~~ 344 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1396, et 66467  
seq., as amended, ~~or certified as~~ and a respite care home 66468  
certified under section 5126.05 of the Revised Code. 66469

The department shall develop a system for locating vacant 66470  
beds that are available for respite care and for making 66471  
information on vacant beds available to users of respite care 66472  
services. Facilities certified as intermediate care facilities for 66473  
the mentally retarded shall report vacant beds to the department 66474  
but shall not be required to accept respite care clients. 66475

The director of developmental disabilities shall adopt, and 66476  
may amend or rescind, rules in accordance with Chapter 119. of the 66477  
Revised Code for both of the following: 66478

(A) Certification by county boards of developmental 66479  
disabilities of respite care homes; 66480

(B) Provision of respite care services authorized by this 66481  
section. Rules adopted under this division shall establish all of 66482  
the following: 66483

(1) A formula for distributing funds appropriated for respite 66484  
care services; 66485

(2) Standards for supervision, training and quality control 66486  
in the provision of respite care services; 66487

(3) Eligibility criteria for emergency respite care services. 66488

**Sec. 5123.19.** (A) As used in ~~this section and in~~ sections 66489

5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.19 to 66490  
5123.20 of the Revised Code: 66491

~~(1)(a) "Residential facility" means a home or facility in 66492  
which a mentally retarded or developmentally disabled person 66493  
resides, except the home of a relative or legal guardian in which 66494  
a mentally retarded or developmentally disabled person resides, a 66495  
respite care home certified under section 5126.05 of the Revised 66496  
Code, a county home or district home operated pursuant to Chapter 66497  
5155. of the Revised Code, or a dwelling in which the only 66498  
mentally retarded or developmentally disabled residents are in an 66499  
independent living arrangement or are being provided supported 66500  
living. 66501~~

~~(b) "Intermediate care facility for the mentally retarded" 66502  
means a residential facility that is considered an intermediate 66503  
care facility for the mentally retarded for the purposes of 66504  
Chapter 5111. of the Revised Code. 66505~~

~~(2) "Political subdivision" means a municipal corporation, 66506  
county, or township. 66507~~

~~(3) "Independent living arrangement" means an arrangement in 66508  
which a mentally retarded or developmentally disabled person 66509  
resides in an individualized setting chosen by the person or the 66510  
person's guardian, which is not dedicated principally to the 66511  
provision of residential services for mentally retarded or 66512  
developmentally disabled persons, and for which no financial 66513  
support is received for rendering such service from any 66514  
governmental agency by a provider of residential services. 66515~~

~~(4)(2) "Intermediate care facility for the mentally retarded" 66516  
has the same meaning as in section 1905(d) of the "Social Security 66517  
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 66518~~

~~(3) "Licensee" means the person or government agency that has 66519  
applied for a license to operate a residential facility and to 66520~~

which the license was issued under this section. 66521

(4) "Political subdivision" means a municipal corporation, 66522  
county, or township. 66523

(5) "Related party" has the same meaning as in section 66524  
5123.16 of the Revised Code except that "provider" as used in the 66525  
definition of "related party" means a person or government entity 66526  
that held or applied for a license to operate a residential 66527  
facility, rather than a person or government entity certified to 66528  
provide supported living. 66529

(6)(a) Except as provided in division (A)(6)(b) of this 66530  
section, "residential facility" means a home or facility, 66531  
including a facility certified as an intermediate care facility 66532  
for the mentally retarded, in which an individual with mental 66533  
retardation or a developmental disability resides. 66534

(b) "Residential facility" does not mean any of the 66535  
following: 66536

(i) The home of a relative or legal guardian in which an 66537  
individual with mental retardation or a developmental disability 66538  
resides; 66539

(ii) A respite care home certified under section 5126.05 of 66540  
the Revised Code; 66541

(iii) A county home or district home operated pursuant to 66542  
Chapter 5155. of the Revised Code; 66543

(iv) A dwelling in which the only residents with mental 66544  
retardation or developmental disabilities are in independent 66545  
living arrangements or are being provided supported living. 66546

(B) Every person or government agency desiring to operate a 66547  
residential facility shall apply for licensure of the facility to 66548  
the director of developmental disabilities unless the residential 66549  
facility is subject to section 3721.02, ~~5119.73~~, 5103.03, or 66550

5119.20, ~~or division (A)(9)(b) of section 5119.22 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.~~ 66551  
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(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered. 66558  
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(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply: 66570  
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(1) The director may deny, refuse to renew, or revoke a 66582

license, if the director determines that the applicant or licensee 66583  
has demonstrated a pattern of serious noncompliance or that a 66584  
violation creates a substantial risk to the health and safety of 66585  
residents of a residential facility. 66586

(2) The director may terminate a license if more than twelve 66587  
consecutive months have elapsed since the residential facility was 66588  
last occupied by a resident or a notice required by division (K) 66589  
of this section is not given. 66590

(3) The director may issue an order for the suspension of 66591  
admissions to a facility for any violation that may result in 66592  
sanctions under division (D)(1) of this section and for any other 66593  
violation specified in rules adopted under division (H)(2) of this 66594  
section. If the suspension of admissions is imposed for a 66595  
violation that may result in sanctions under division (D)(1) of 66596  
this section, the director may impose the suspension before 66597  
providing an opportunity for an adjudication under Chapter 119. of 66598  
the Revised Code. The director shall lift an order for the 66599  
suspension of admissions when the director determines that the 66600  
violation that formed the basis for the order has been corrected. 66601

(4) The director may order the placement of a monitor at a 66602  
residential facility for any violation specified in rules adopted 66603  
under division (H)(2) of this section. The director shall lift the 66604  
order when the director determines that the violation that formed 66605  
the basis for the order has been corrected. 66606

(5) If the director determines that two or more residential 66607  
facilities owned or operated by the same person or government 66608  
entity are not being operated in compliance with a provision of 66609  
this chapter that applies to residential facilities or the rules 66610  
adopted under such a provision, and the director's findings are 66611  
based on the same or a substantially similar action, practice, 66612  
circumstance, or incident that creates a substantial risk to the 66613  
health and safety of the residents, the director shall conduct a 66614

survey as soon as practicable at each residential facility owned 66615  
or operated by that person or government entity. The director may 66616  
take any action authorized by this section with respect to any 66617  
facility found to be operating in violation of a provision of this 66618  
chapter that applies to residential facilities or the rules 66619  
adopted under such a provision. 66620

(6) When the director initiates license revocation 66621  
proceedings, no opportunity for submitting a plan of correction 66622  
shall be given. The director shall notify the licensee by letter 66623  
of the initiation of the proceedings. The letter shall list the 66624  
deficiencies of the residential facility and inform the licensee 66625  
that no plan of correction will be accepted. The director shall 66626  
also send a copy of the letter to the county board of 66627  
developmental disabilities. The county board shall send a copy of 66628  
the letter to each of the following: 66629

(a) Each resident who receives services from the licensee; 66630

(b) The guardian of each resident who receives services from 66631  
the licensee if the resident has a guardian; 66632

(c) The parent or guardian of each resident who receives 66633  
services from the licensee if the resident is a minor. 66634

(7) Pursuant to rules which shall be adopted in accordance 66635  
with Chapter 119. of the Revised Code, the director may order the 66636  
immediate removal of residents from a residential facility 66637  
whenever conditions at the facility present an immediate danger of 66638  
physical or psychological harm to the residents. 66639

(8) In determining whether a residential facility is being 66640  
operated in compliance with a provision of this chapter that 66641  
applies to residential facilities or the rules adopted under such 66642  
a provision, or whether conditions at a residential facility 66643  
present an immediate danger of physical or psychological harm to 66644  
the residents, the director may rely on information obtained by a 66645

county board of developmental disabilities or other governmental agencies. 66646  
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(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing. 66648  
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(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected. 66653  
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(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code. 66671  
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(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order 66675  
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was issued before providing an opportunity for an adjudication, in 66678  
which case all of the following apply: 66679

(a) The licensee may request a hearing not later than ten 66680  
days after receiving the notice specified in section 119.07 of the 66681  
Revised Code. 66682

(b) If a timely request for a hearing that includes the 66683  
licensee's current address is made, the hearing shall commence not 66684  
later than thirty days after the department receives the request. 66685

(c) After commencing, the hearing shall continue 66686  
uninterrupted, except for Saturdays, Sundays, and legal holidays, 66687  
unless other interruptions are agreed to by the licensee and the 66688  
director. 66689

(d) If the hearing is conducted by a hearing examiner, the 66690  
hearing examiner shall file a report and recommendations not later 66691  
than ten days after the last of the following: 66692

(i) The close of the hearing; 66693

(ii) If a transcript of the proceedings is ordered, the 66694  
hearing examiner receives the transcript; 66695

(iii) If post-hearing briefs are timely filed, the hearing 66696  
examiner receives the briefs. 66697

(e) A copy of the written report and recommendation of the 66698  
hearing examiner shall be sent, by certified mail, to the licensee 66699  
and the licensee's attorney, if applicable, not later than five 66700  
days after the report is filed. 66701

(f) Not later than five days after the hearing examiner files 66702  
the report and recommendations, the licensee may file objections 66703  
to the report and recommendations. 66704

(g) Not later than fifteen days after the hearing examiner 66705  
files the report and recommendations, the director shall issue an 66706  
order approving, modifying, or disapproving the report and 66707

recommendations. 66708

(h) Notwithstanding the pendency of the hearing, the director 66709  
shall lift the order for the suspension of admissions when the 66710  
director determines that the violation that formed the basis for 66711  
the order has been corrected. 66712

(G) Neither a person or government agency whose application 66713  
for a license to operate a residential facility is denied nor a 66714  
related party of the person or government agency may apply for a 66715  
license to operate a residential facility before the date that is 66716  
one year after the date of the denial. Neither a licensee whose 66717  
residential facility license is revoked nor a related party of the 66718  
licensee may apply for a residential facility license before the 66719  
date that is five years after the date of the revocation. 66720

(H) In accordance with Chapter 119. of the Revised Code, the 66721  
director shall adopt and may amend and rescind rules for licensing 66722  
and regulating the operation of residential facilities, ~~including~~ 66723  
~~intermediate care facilities for the mentally retarded~~. The rules 66724  
for residential facilities that are intermediate care facilities 66725  
for the mentally retarded may differ from those for other 66726  
residential facilities. The rules shall establish and specify the 66727  
following: 66728

(1) Procedures and criteria for issuing and renewing 66729  
licenses, including procedures and criteria for determining the 66730  
length of the licensing period that the director must specify for 66731  
each license when it is issued or renewed; 66732

(2) Procedures and criteria for denying, refusing to renew, 66733  
terminating, and revoking licenses and for ordering the suspension 66734  
of admissions to a facility, placement of a monitor at a facility, 66735  
and the immediate removal of residents from a facility; 66736

(3) Fees for issuing and renewing licenses, which shall be 66737  
deposited into the program fee fund created under section 5123.033 66738

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| of the Revised Code;   | 66739   |
| (4) Procedures for surveying residential facilities;   | 66740   |
| (5) Requirements for the training of residential facility<br>personnel;  | 66741<br>66742  |
| (6) Classifications for the various types of residential<br>facilities;  | 66743<br>66744  |
| (7) Certification procedures for licensees and management<br>contractors that the director determines are necessary to ensure<br>that they have the skills and qualifications to properly operate<br>or manage residential facilities;   | 66745<br>66746<br>66747<br>66748  |
| (8) The maximum number of persons who may be served in a<br>particular type of residential facility;   | 66749<br>66750  |
| (9) Uniform procedures for admission of persons to and<br>transfers and discharges of persons from residential facilities;   | 66751<br>66752  |
| (10) Other standards for the operation of residential<br>facilities and the services provided at residential facilities;   | 66753<br>66754  |
| (11) Procedures for waiving any provision of any rule adopted<br>under this section.   | 66755<br>66756  |
| (I) Before issuing a license, the director of the department<br>or the director's designee shall conduct a survey of the<br>residential facility for which application is made. The director<br>or the director's designee shall conduct a survey of each licensed<br>residential facility at least once during the period the license<br>is valid and may conduct additional inspections as needed. A<br>survey includes but is not limited to an on-site examination and<br>evaluation of the residential facility, its personnel, and the<br>services provided there. | 66757<br>66758<br>66759<br>66760<br>66761<br>66762<br>66763<br>66764<br>66765 |
| In conducting surveys, the director or the director's<br>designee shall be given access to the residential facility; all<br>records, accounts, and any other documents related to the  | 66766<br>66767<br>66768   |

operation of the facility; the licensee; the residents of the 66769  
facility; and all persons acting on behalf of, under the control 66770  
of, or in connection with the licensee. The licensee and all 66771  
persons on behalf of, under the control of, or in connection with 66772  
the licensee shall cooperate with the director or the director's 66773  
designee in conducting the survey. 66774

Following each survey, unless the director initiates a 66775  
license revocation proceeding, the director or the director's 66776  
designee shall provide the licensee with a report listing any 66777  
deficiencies, specifying a timetable within which the licensee 66778  
shall submit a plan of correction describing how the deficiencies 66779  
will be corrected, and, when appropriate, specifying a timetable 66780  
within which the licensee must correct the deficiencies. After a 66781  
plan of correction is submitted, the director or the director's 66782  
designee shall approve or disapprove the plan. A copy of the 66783  
report and any approved plan of correction shall be provided to 66784  
any person who requests it. 66785

The director shall initiate disciplinary action against any 66786  
department employee who notifies or causes the notification to any 66787  
unauthorized person of an unannounced survey of a residential 66788  
facility by an authorized representative of the department. 66789

(J) In addition to any other information which may be 66790  
required of applicants for a license pursuant to this section, the 66791  
director shall require each applicant to provide a copy of an 66792  
approved plan for a proposed residential facility pursuant to 66793  
section 5123.042 of the Revised Code. This division does not apply 66794  
to renewal of a license or to an applicant for an initial or 66795  
modified license who meets the requirements of section ~~5123.193~~ or 66796  
5123.197 of the Revised Code. 66797

(K) A licensee shall notify the owner of the building in 66798  
which the licensee's residential facility is located of any 66799  
significant change in the identity of the licensee or management 66800

contractor before the effective date of the change if the licensee 66801  
is not the owner of the building. 66802

Pursuant to rules which shall be adopted in accordance with 66803  
Chapter 119. of the Revised Code, the director may require 66804  
notification to the department of any significant change in the 66805  
ownership of a residential facility or in the identity of the 66806  
licensee or management contractor. If the director determines that 66807  
a significant change of ownership is proposed, the director shall 66808  
consider the proposed change to be an application for development 66809  
by a new operator pursuant to section 5123.042 of the Revised Code 66810  
and shall advise the applicant within sixty days of the 66811  
notification that the current license shall continue in effect or 66812  
a new license will be required pursuant to this section. If the 66813  
director requires a new license, the director shall permit the 66814  
facility to continue to operate under the current license until 66815  
the new license is issued, unless the current license is revoked, 66816  
refused to be renewed, or terminated in accordance with Chapter 66817  
119. of the Revised Code. 66818

(L) A county board of developmental disabilities, the legal 66819  
rights service, and any interested person may file complaints 66820  
alleging violations of statute or department rule relating to 66821  
residential facilities with the department. All complaints shall 66822  
be in writing and shall state the facts constituting the basis of 66823  
the allegation. The department shall not reveal the source of any 66824  
complaint unless the complainant agrees in writing to waive the 66825  
right to confidentiality or until so ordered by a court of 66826  
competent jurisdiction. 66827

The department shall adopt rules in accordance with Chapter 66828  
119. of the Revised Code establishing procedures for the receipt, 66829  
referral, investigation, and disposition of complaints filed with 66830  
the department under this division. 66831

(M) The department shall establish procedures for the 66832

notification of interested parties of the transfer or interim care 66833  
of residents from residential facilities that are closing or are 66834  
losing their license. 66835

(N) Before issuing a license under this section to a 66836  
residential facility that will accommodate at any time more than 66837  
one mentally retarded or developmentally disabled individual, the 66838  
director shall, by first class mail, notify the following: 66839

(1) If the facility will be located in a municipal 66840  
corporation, the clerk of the legislative authority of the 66841  
municipal corporation; 66842

(2) If the facility will be located in unincorporated 66843  
territory, the clerk of the appropriate board of county 66844  
commissioners and the fiscal officer of the appropriate board of 66845  
township trustees. 66846

The director shall not issue the license for ten days after 66847  
mailing the notice, excluding Saturdays, Sundays, and legal 66848  
holidays, in order to give the notified local officials time in 66849  
which to comment on the proposed issuance. 66850

Any legislative authority of a municipal corporation, board 66851  
of county commissioners, or board of township trustees that 66852  
receives notice under this division of the proposed issuance of a 66853  
license for a residential facility may comment on it in writing to 66854  
the director within ten days after the director mailed the notice, 66855  
excluding Saturdays, Sundays, and legal holidays. If the director 66856  
receives written comments from any notified officials within the 66857  
specified time, the director shall make written findings 66858  
concerning the comments and the director's decision on the 66859  
issuance of the license. If the director does not receive written 66860  
comments from any notified local officials within the specified 66861  
time, the director shall continue the process for issuance of the 66862  
license. 66863

(O) Any person may operate a licensed residential facility 66864  
that provides room and board, personal care, habilitation 66865  
services, and supervision in a family setting for at least six but 66866  
not more than eight persons with mental retardation or a 66867  
developmental disability as a permitted use in any residential 66868  
district or zone, including any single-family residential district 66869  
or zone, of any political subdivision. These residential 66870  
facilities may be required to comply with area, height, yard, and 66871  
architectural compatibility requirements that are uniformly 66872  
imposed upon all single-family residences within the district or 66873  
zone. 66874

(P) Any person may operate a licensed residential facility 66875  
that provides room and board, personal care, habilitation 66876  
services, and supervision in a family setting for at least nine 66877  
but not more than sixteen persons with mental retardation or a 66878  
developmental disability as a permitted use in any multiple-family 66879  
residential district or zone of any political subdivision, except 66880  
that a political subdivision that has enacted a zoning ordinance 66881  
or resolution establishing planned unit development districts may 66882  
exclude these residential facilities from those districts, and a 66883  
political subdivision that has enacted a zoning ordinance or 66884  
resolution may regulate these residential facilities in 66885  
multiple-family residential districts or zones as a conditionally 66886  
permitted use or special exception, in either case, under 66887  
reasonable and specific standards and conditions set out in the 66888  
zoning ordinance or resolution to: 66889

(1) Require the architectural design and site layout of the 66890  
residential facility and the location, nature, and height of any 66891  
walls, screens, and fences to be compatible with adjoining land 66892  
uses and the residential character of the neighborhood; 66893

(2) Require compliance with yard, parking, and sign 66894  
regulation; 66895

(3) Limit excessive concentration of these residential facilities. 66896  
66897

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations. 66898  
66899  
66900  
66901

(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification. 66902  
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(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case: 66908  
66909  
66910

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license. 66911  
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66914  
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(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 66917  
66918  
66919

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 66920  
66921  
66922  
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(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred 66925  
66926

fifty days. 66927

(4) The director shall adopt rules in accordance with Chapter 66928  
119. of the Revised Code as the director considers necessary to 66929  
administer the issuance of interim licenses. 66930

(T) Notwithstanding rules adopted pursuant to this section 66931  
establishing the maximum number of persons who may be served in a 66932  
particular type of residential facility, a residential facility 66933  
shall be permitted to serve the same number of persons being 66934  
served by the facility on the effective date of the rules or the 66935  
number of persons for which the facility is authorized pursuant to 66936  
a current application for a certificate of need with a letter of 66937  
support from the department of developmental disabilities and 66938  
which is in the review process prior to April 4, 1986. 66939

(U) The director or the director's designee may enter at any 66940  
time, for purposes of investigation, any home, facility, or other 66941  
structure that has been reported to the director or that the 66942  
director has reasonable cause to believe is being operated as a 66943  
residential facility without a license issued under this section. 66944

The director may petition the court of common pleas of the 66945  
county in which an unlicensed residential facility is located for 66946  
an order enjoining the person or governmental agency operating the 66947  
facility from continuing to operate without a license. The court 66948  
may grant the injunction on a showing that the person or 66949  
governmental agency named in the petition is operating a 66950  
residential facility without a license. The court may grant the 66951  
injunction, regardless of whether the residential facility meets 66952  
the requirements for receiving a license under this section. 66953

Sec. 5123.192. (A) A person or government agency operating, 66954  
on the effective date of this section, an intermediate care 66955  
facility for the mentally retarded pursuant to a nursing home 66956  
license issued under Chapter 3721. of the Revised Code shall do 66957

both of the following as a condition of continuing to operate the facility on and after July 1, 2013: 66958  
66959

(1) Not later than February 1, 2013, apply to the director of developmental disabilities for a residential facility license under section 5123.19 of the Revised Code for the facility; 66960  
66961  
66962

(2) Not later than July 1, 2013, obtain the residential facility license for the facility. 66963  
66964

(B) The nursing home license of an intermediate care facility for the mentally retarded shall cease to be valid at the earliest of the following: 66965  
66966  
66967

(1) The date that the facility's nursing home license is revoked or voided under section 3721.07 of the Revised Code; 66968  
66969

(2) The date that a residential facility license is obtained for the facility under section 5123.19 of the Revised Code; 66970  
66971

(3) July 1, 2013. 66972

(C) No bed that is part of an intermediate care facility for the mentally retarded that is licensed as a nursing home on the effective date of this section may be used as part of a nursing home on and after the earlier of the following: 66973  
66974  
66975  
66976

(1) The date that a residential facility license is obtained for the facility under section 5123.19 of the Revised Code; 66977  
66978

(2) July 1, 2013. 66979

**Sec. 5123.31.** (A) The department of developmental disabilities shall keep ~~in its office, accessible only to its employees, except by the consent of the department or the order of the judge of a court of record,~~ a record showing the name, residence, sex, age, nativity, occupation, condition, and date of entrance or commitment of every resident in the institutions governed by it, the date, cause, and terms of discharge and the 66980  
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condition of such person at the time of leaving, and also a record 66987  
of all transfers from one institution to another, and, if such 66988  
person dies while in the care or custody of the department, the 66989  
date and cause of death. These and such other facts as the 66990  
department requires shall be furnished by the managing officer of 66991  
each institution within ten days after the commitment, entrance, 66992  
death, or discharge of a resident. 66993

Except as provided in division (C) of this section, the 66994  
department shall maintain the records described in this division 66995  
in its office. The department shall make the records accessible 66996  
only to its employees, except by the consent of the department or 66997  
the order of the judge of a court of record. 66998

(B) In case of an accident or injury or peculiar death of a 66999  
an institution resident the managing officer shall make a special 67000  
report to the department within twenty-four hours thereafter, 67001  
giving the circumstances as fully as possible. 67002

(C) After a period of time determined by the department, the 67003  
records described in division (A) of this section may be deposited 67004  
with the Ohio historical society. Neither the records nor the 67005  
information contained in them shall be disclosed by the historical 67006  
society, except as provided in section 5123.89 of the Revised 67007  
Code. 67008

**Sec. 5123.38.** (A) Except as provided in division (B) ~~and (C)~~ 67009  
of this section, if an individual receiving supported living or 67010  
home and community-based services funded by a county board of 67011  
developmental disabilities is committed to a state-operated 67012  
intermediate care facility for the mentally retarded pursuant to 67013  
sections 5123.71 to 5123.76 of the Revised Code, ~~the department of~~ 67014  
~~developmental disabilities shall use the funds otherwise allocated~~ 67015  
~~to~~ the county board ~~as~~ is responsible for the nonfederal share of 67016  
medicaid expenditures for the individual's care in the 67017

state-operated facility. The department of developmental 67018  
disabilities shall collect the amount of the nonfederal share from 67019  
the county board by either withholding that amount from funds the 67020  
department has otherwise allocated to the county board or 67021  
submitting an invoice for payment of that amount to the county 67022  
board. 67023

(B) Division (A) of this section does not apply ~~if the~~ under 67024  
any of the following circumstances: 67025

(1) The county board, not later than ninety days after the 67026  
date of the commitment of a person receiving supported ~~services~~ 67027  
living, commences funding of supported living for an individual 67028  
who resides in a state-operated intermediate care facility for the 67029  
mentally retarded on the date of the commitment or another 67030  
eligible individual designated by the department. 67031

~~(C) Division (A) of this section does not apply if the~~ (2) 67032  
The county board, not later than ninety days after the date of the 67033  
commitment of a person receiving home and community-based 67034  
services, commences funding of home and community-based services 67035  
for an individual who resides in a state-operated intermediate 67036  
care facility for the mentally retarded on the date of the 67037  
commitment or another eligible individual designated by the 67038  
department. 67039

(3) The director of developmental disabilities, after 67040  
determining that circumstances warrant granting a waiver in an 67041  
individual's case, grants the county board a waiver that exempts 67042  
the county board from responsibility for the nonfederal share for 67043  
that case. 67044

**Sec. 5123.41.** As used in this section and sections 5123.42 to 67045  
5123.47 of the Revised Code: 67046

(A) "Adult services" has the same meaning as in section 67047

|  |                                  |
|--|----------------------------------|
| 5126.01 of the Revised Code.   | 67048                            |
| (B) "Certified supported living provider" means a person or government entity certified under section 5123.161 of the Revised Code.  | 67049<br>67050<br>67051          |
| (C) "Drug" has the same meaning as in section 4729.01 of the Revised Code.   | 67052<br>67053                   |
| (D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.  | 67054<br>67055                   |
| (E) "Health-related activities" means the following:   | 67056                            |
| (1) Taking vital signs;  | 67057                            |
| (2) Application of clean dressings that do not require health assessment;  | 67058<br>67059                   |
| (3) Basic measurement of bodily intake and output;   | 67060                            |
| (4) Oral suctioning;   | 67061                            |
| (5) Use of glucometers;  | 67062                            |
| (6) External urinary catheter care;  | 67063                            |
| (7) Emptying and replacing colostomy bags;   | 67064                            |
| (8) Collection of specimens by noninvasive means.  | 67065                            |
| (F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.   | 67066<br>67067<br>67068          |
| (G) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows: | 67069<br>67070<br>67071<br>67072 |
| (1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities;   | 67073<br>67074<br>67075          |

(2) Through an entity under contract with the department of developmental disabilities or a county board of developmental disabilities; 67076  
67077  
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(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities. 67079  
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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. 67082  
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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. 67089  
67090  
67091

(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.~~ 67092  
67093  
67094

(K) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code. 67095  
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(L) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube. 67097  
67098

**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: 67099  
67100

(A) "Abuse" means all of the following: 67101

(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm; 67102  
67103

(2) Sexual abuse; 67104

|  |                                  |
|--|----------------------------------|
| (3) Verbal abuse.  | 67105                            |
| (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. | 67106<br>67107<br>67108<br>67109 |
| (C) "MR/DD employee" means all of the following:   | 67110                            |
| (1) An employee of the department of developmental disabilities;   | 67111<br>67112                   |
| (2) An employee of a county board of developmental disabilities;   | 67113<br>67114                   |
| (3) An employee in a position that includes providing specialized services to an individual with mental retardation or another developmental disability;   | 67115<br>67116<br>67117          |
| <u>(4) An independent provider as defined in section 5123.16 of the Revised Code.</u>  | 67118<br>67119                   |
| (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.                                  | 67120<br>67121<br>67122<br>67123 |
| (E) <u>"Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.</u>   | 67124<br>67125                   |
| <u>(F)</u> "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code.   | 67126<br>67127                   |
| <del>(F)</del> (G) <u>"Prescribed medication" has the same meaning as in section 5123.41 of the Revised Code.</u>  | 67128<br>67129                   |
| <u>(H)</u> "Sexual abuse" means unlawful sexual conduct or sexual contact.   | 67130<br>67131                   |
| <del>(G)</del> <u>(I)</u> "Specialized services" means any program or service designed and operated to serve primarily individuals with mental   | 67132<br>67133                   |

retardation or a developmental disability, including a program or 67134  
service provided by an entity licensed or certified by the 67135  
department of developmental disabilities. A program or service 67136  
available to the general public is not a specialized service. 67137

~~(H)~~(J) "Verbal abuse" means purposely using words to 67138  
threaten, coerce, intimidate, harass, or humiliate an individual. 67139

~~(I)~~(K) "Sexual conduct," "sexual contact," and "spouse" have 67140  
the same meanings as in section 2907.01 of the Revised Code. 67141

**Sec. 5123.51.** (A) In addition to any other action required by 67142  
sections 5123.61 and 5126.31 of the Revised Code, the department 67143  
of developmental disabilities shall review each report the 67144  
department receives of abuse or neglect of an individual with 67145  
mental retardation or a developmental disability or 67146  
misappropriation of an individual's property that includes an 67147  
allegation that an MR/DD employee committed or was responsible for 67148  
the abuse, neglect, or misappropriation. The department shall 67149  
review a report it receives from a public children services agency 67150  
only after the agency completes its investigation pursuant to 67151  
section 2151.421 of the Revised Code. On receipt of a notice under 67152  
section 2930.061 or 5123.541 of the Revised Code, the department 67153  
shall review the notice. 67154

(B) The department shall do both of the following: 67155

(1) Investigate the allegation or adopt the findings of an 67156  
investigation or review of the allegation conducted by another 67157  
person or government entity and determine whether there is a 67158  
reasonable basis for the allegation; 67159

(2) If the department determines that there is a reasonable 67160  
basis for the allegation, conduct an adjudication pursuant to 67161  
Chapter 119. of the Revised Code. 67162

(C)(1) The department shall appoint an independent hearing 67163

officer to conduct any hearing conducted pursuant to division 67164  
(B)(2) of this section, except that, if the hearing is regarding 67165  
an employee of the department who is represented by a union, the 67166  
department and a representative of the union shall jointly select 67167  
the hearing officer. 67168

(2)(a) Except as provided in division (C)(2)(b) of this 67169  
section, no hearing shall be conducted under division (B)(2) of 67170  
this section until any criminal proceeding or collective 67171  
bargaining arbitration concerning the same allegation has 67172  
concluded. 67173

(b) The department may conduct a hearing pursuant to division 67174  
(B)(2) of this section before a criminal proceeding concerning the 67175  
same allegation is concluded if both of the following are the 67176  
case: 67177

(i) The department notifies the prosecutor responsible for 67178  
the criminal proceeding that the department proposes to conduct a 67179  
hearing. 67180

(ii) The prosecutor consents to the hearing. 67181

(3) In conducting a hearing pursuant to division (B)(2) of 67182  
this section, the hearing officer shall do all of the following: 67183

(a) Determine whether there is clear and convincing evidence 67184  
that the MR/DD employee has done any of the following: 67185

(i) Misappropriated property of one or more individuals with 67186  
mental retardation or a developmental disability that has a value, 67187  
either separately or taken together, of one hundred dollars or 67188  
more; 67189

(ii) Misappropriated property of an individual with mental 67190  
retardation or a developmental disability that is designed to be 67191  
used as a check, draft, negotiable instrument, credit card, charge 67192  
card, or device for initiating an electronic fund transfer at a 67193

|   |       |
|---|-------|
| point of sale terminal, automated teller machine, or cash   | 67194 |
| dispensing machine;   | 67195 |
| <u>(iii) Misappropriated prescribed medication of an individual with mental retardation or a developmental disability;</u>  | 67196 |
| <u>(iii) Misappropriated prescribed medication of an individual with mental retardation or a developmental disability;</u>  | 67197 |
| <u>(iv) Knowingly abused such an individual;</u>  | 67198 |
| <del>(iv)</del> <u>(v) Recklessly abused or neglected such an individual, with resulting physical harm;</u>   | 67199 |
| <del>(iv)</del> <u>(v) Recklessly abused or neglected such an individual, with resulting physical harm;</u>   | 67200 |
| <del>(v)</del> <u>(vi) Negligently abused or neglected such an individual, with resulting serious physical harm;</u>  | 67201 |
| <del>(v)</del> <u>(vi) Negligently abused or neglected such an individual, with resulting serious physical harm;</u>  | 67202 |
| <del>(vi)</del> <u>(vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;</u>   | 67203 |
| <del>(vi)</del> <u>(vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm;</u>   | 67204 |
| <del>(vii)</del> <u>(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;</u>   | 67205 |
| <del>(vii)</del> <u>(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;</u>   | 67206 |
| <del>(vii)</del> <u>(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;</u>   | 67207 |
| <del>(vii)</del> <u>(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;</u>   | 67208 |
| <del>(vii)</del> <u>(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;</u>   | 67209 |
| <del>(viii)</del> <u>(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;</u>  | 67210 |
| <del>(viii)</del> <u>(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;</u>  | 67211 |
| <del>(viii)</del> <u>(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;</u>  | 67212 |
| <del>(viii)</del> <u>(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;</u>  | 67213 |
| <del>(viii)</del> <u>(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;</u>  | 67214 |
| <u>(x) 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 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 67215 |
| <u>(x) 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 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 67216 |
| <u>(x) 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 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 67217 |
| <u>(x) 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 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 67218 |
| <u>(x) 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 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 67219 |
| <u>(x) 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 2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 67220 |
| (b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation;   | 67221 |
| (b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation;   | 67222 |
| (c) Give weight to any relevant facts presented at the  | 67223 |

hearing. 67224

(D)(1) Unless the director of developmental disabilities 67225  
determines that there are extenuating circumstances and except as 67226  
provided in division (E) of this section, if the director, after 67227  
considering all of the factors listed in division (C)(3) of this 67228  
section, finds that there is clear and convincing evidence that an 67229  
MR/DD employee has done one or more of the things described in 67230  
division (C)(3)(a) of this section the director shall include the 67231  
name of the employee in the registry established under section 67232  
5123.52 of the Revised Code. 67233

(2) Extenuating circumstances the director must consider 67234  
include the use of physical force by an MR/DD employee that was 67235  
necessary as self-defense. 67236

(3) If the director includes an MR/DD employee in the 67237  
registry established under section 5123.52 of the Revised Code, 67238  
the director shall notify the employee, the person or government 67239  
entity that employs or contracts with the employee, the individual 67240  
with mental retardation or a developmental disability who was the 67241  
subject of the report and that individual's legal guardian, if 67242  
any, the attorney general, and the prosecuting attorney or other 67243  
law enforcement agency. If the MR/DD employee holds a license, 67244  
certificate, registration, or other authorization to engage in a 67245  
profession issued pursuant to Title XLVII of the Revised Code, the 67246  
director shall notify the appropriate agency, board, department, 67247  
or other entity responsible for regulating the employee's 67248  
professional practice. 67249

(4) If an individual whose name appears on the registry is 67250  
involved in a court proceeding or arbitration arising from the 67251  
same facts as the allegation resulting in the individual's 67252  
placement on the registry, the disposition of the proceeding or 67253  
arbitration shall be noted in the registry next to the 67254  
individual's name. 67255

(E) In the case of an allegation concerning an employee of 67256  
the department, after the hearing conducted pursuant to division 67257  
(B)(2) of this section, the director of health or that director's 67258  
designee shall review the decision of the hearing officer to 67259  
determine whether the standard described in division (C)(3) of 67260  
this section has been met. If the director or designee determines 67261  
that the standard has been met and that no extenuating 67262  
circumstances exist, the director or designee shall notify the 67263  
director of developmental disabilities that the MR/DD employee is 67264  
to be included in the registry established under section 5123.52 67265  
of the Revised Code. If the director of developmental disabilities 67266  
receives such notification, the director shall include the MR/DD 67267  
employee in the registry and shall provide the notification 67268  
described in division (D)(3) of this section. 67269

(F) If the department is required by Chapter 119. of the 67270  
Revised Code to give notice of an opportunity for a hearing and 67271  
the MR/DD employee subject to the notice does not timely request a 67272  
hearing in accordance with section 119.07 or 5123.0414 of the 67273  
Revised Code, the department is not required to hold a hearing. 67274

(G) Files and records of investigations conducted pursuant to 67275  
this section are not public records as defined in section 149.43 67276  
of the Revised Code, but, on request, the department shall provide 67277  
copies of those files and records to the attorney general, a 67278  
prosecuting attorney, or a law enforcement agency. 67279

**Sec. 5123.542.** (A) Each of the following shall annually 67280  
provide a written notice to each of its MR/DD employees explaining 67281  
the conduct for which an MR/DD employee may be included in the 67282  
registry established under section 5123.52 of the Revised Code: 67283

(1) The department of developmental disabilities; 67284

(2) Each county board of developmental disabilities; 67285

|   |   |
|---|---|
| (3) Each <del>contracting entity</del> <u>provider and subcontractor</u> , as defined in section <del>5126.281</del> <u>5123.081</u> of the Revised Code;   | 67286<br>67287                            |
| (4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code;  | 67288<br>67289                            |
| (5) Each owner, operator, or administrator of a program certified by the department to provide supported living.  | 67290<br>67291                            |
| (B) <u>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.</u>        | 67292<br>67293<br>67294<br>67295<br>67296 |
| (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. | 67297<br>67298<br>67299<br>67300<br>67301 |
| (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.   | 67302<br>67303<br>67304<br>67305          |
| <b>Sec. 5123.61.</b> (A) As used in this section:   | 67306                                     |
| (1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.   | 67307<br>67308<br>67309                   |
| (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.   | 67310<br>67311<br>67312                   |
| (3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.   | 67313<br>67314                            |

(B) The department of developmental disabilities shall 67315  
establish a registry office for the purpose of maintaining reports 67316  
of abuse, neglect, and other major unusual incidents made to the 67317  
department under this section and reports received from county 67318  
boards of developmental disabilities under section 5126.31 of the 67319  
Revised Code. The department shall establish committees to review 67320  
reports of abuse, neglect, and other major unusual incidents. 67321

(C)(1) Any person listed in division (C)(2) of this section, 67322  
having reason to believe that a person with mental retardation or 67323  
a developmental disability has suffered or faces a substantial 67324  
risk of suffering any wound, injury, disability, or condition of 67325  
such a nature as to reasonably indicate abuse or neglect of that 67326  
person, shall immediately report or cause reports to be made of 67327  
such information to the entity specified in this division. Except 67328  
as provided in section 5120.173 of the Revised Code or as 67329  
otherwise provided in this division, the person making the report 67330  
shall make it to a law enforcement agency or to the county board 67331  
of developmental disabilities. If the report concerns a resident 67332  
of a facility operated by the department of developmental 67333  
disabilities the report shall be made either to a law enforcement 67334  
agency or to the department. If the report concerns any act or 67335  
omission of an employee of a county board of developmental 67336  
disabilities, the report immediately shall be made to the 67337  
department and to the county board. 67338

(2) All of the following persons are required to make a 67339  
report under division (C)(1) of this section: 67340

(a) Any physician, including a hospital intern or resident, 67341  
any dentist, podiatrist, chiropractor, practitioner of a limited 67342  
branch of medicine as specified in section 4731.15 of the Revised 67343  
Code, hospital administrator or employee of a hospital, nurse 67344  
licensed under Chapter 4723. of the Revised Code, employee of an 67345  
ambulatory health facility as defined in section 5101.61 of the 67346

Revised Code, employee of a home health agency, employee of an  
adult-care residential facility licensed under ~~Chapter 3722.~~  
section 5119.22 of the Revised Code that provides accommodations,  
supervision, and personal care services for three to sixteen  
unrelated adults, or employee of a community mental health  
facility;

(b) Any school teacher or school authority, social worker,  
psychologist, attorney, peace officer, coroner, or residents'  
rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county  
board of developmental disabilities; an administrator, board  
member, or employee of a residential facility licensed under  
section 5123.19 of the Revised Code; an administrator, board  
member, or employee of any other public or private provider of  
services to a person with mental retardation or a developmental  
disability, or any MR/DD employee, as defined in section 5123.50  
of the Revised Code;

(d) A member of a citizen's advisory council established at  
an institution or branch institution of the department of  
developmental disabilities under section 5123.092 of the Revised  
Code;

(e) A ~~clergyman~~ member of the clergy who is employed in a  
position that includes providing specialized services to an  
individual with mental retardation or another developmental  
disability, while acting in an official or professional capacity  
in that position, or a person who is employed in a position that  
includes providing specialized services to an individual with  
mental retardation or another developmental disability and who,  
while acting in an official or professional capacity, renders  
spiritual treatment through prayer in accordance with the tenets  
of an organized religion.

(3)(a) The reporting requirements of this division do not 67378  
apply to members of the legal rights service commission or to 67379  
employees of the legal rights service. 67380

(b) An attorney or physician is not required to make a report 67381  
pursuant to division (C)(1) of this section concerning any 67382  
communication the attorney or physician receives from a client or 67383  
patient in an attorney-client or physician-patient relationship, 67384  
if, in accordance with division (A) or (B) of section 2317.02 of 67385  
the Revised Code, the attorney or physician could not testify with 67386  
respect to that communication in a civil or criminal proceeding, 67387  
except that the client or patient is deemed to have waived any 67388  
testimonial privilege under division (A) or (B) of section 2317.02 67389  
of the Revised Code with respect to that communication and the 67390  
attorney or physician shall make a report pursuant to division 67391  
(C)(1) of this section, if both of the following apply: 67392

(i) The client or patient, at the time of the communication, 67393  
is a person with mental retardation or a developmental disability. 67394

(ii) The attorney or physician knows or suspects, as a result 67395  
of the communication or any observations made during that 67396  
communication, that the client or patient has suffered or faces a 67397  
substantial risk of suffering any wound, injury, disability, or 67398  
condition of a nature that reasonably indicates abuse or neglect 67399  
of the client or patient. 67400

(4) Any person who fails to make a report required under 67401  
division (C) of this section and who is an MR/DD employee, as 67402  
defined in section 5123.50 of the Revised Code, shall be eligible 67403  
to be included in the registry regarding misappropriation, abuse, 67404  
neglect, or other specified misconduct by MR/DD employees 67405  
established under section 5123.52 of the Revised Code. 67406

(D) The reports required under division (C) of this section 67407  
shall be made forthwith by telephone or in person and shall be 67408

followed by a written report. The reports shall contain the 67409  
following: 67410

(1) The names and addresses of the person with mental 67411  
retardation or a developmental disability and the person's 67412  
custodian, if known; 67413

(2) The age of the person with mental retardation or a 67414  
developmental disability; 67415

(3) Any other information that would assist in the 67416  
investigation of the report. 67417

(E) When a physician performing services as a member of the 67418  
staff of a hospital or similar institution has reason to believe 67419  
that a person with mental retardation or a developmental 67420  
disability has suffered injury, abuse, or physical neglect, the 67421  
physician shall notify the person in charge of the institution or 67422  
that person's designated delegate, who shall make the necessary 67423  
reports. 67424

(F) Any person having reasonable cause to believe that a 67425  
person with mental retardation or a developmental disability has 67426  
suffered or faces a substantial risk of suffering abuse or neglect 67427  
may report or cause a report to be made of that belief to the 67428  
entity specified in this division. Except as provided in section 67429  
5120.173 of the Revised Code or as otherwise provided in this 67430  
division, the person making the report shall make it to a law 67431  
enforcement agency or the county board of developmental 67432  
disabilities. If the person is a resident of a facility operated 67433  
by the department of developmental disabilities, the report shall 67434  
be made to a law enforcement agency or to the department. If the 67435  
report concerns any act or omission of an employee of a county 67436  
board of developmental disabilities, the report immediately shall 67437  
be made to the department and to the county board. 67438

(G)(1) Upon the receipt of a report concerning the possible 67439

abuse or neglect of a person with mental retardation or a 67440  
developmental disability, the law enforcement agency shall inform 67441  
the county board of developmental disabilities or, if the person 67442  
is a resident of a facility operated by the department of 67443  
developmental disabilities, the director of the department or the 67444  
director's designee. 67445

(2) On receipt of a report under this section that includes 67446  
an allegation of action or inaction that may constitute a crime 67447  
under federal law or the law of this state, the department of 67448  
developmental disabilities shall notify the law enforcement 67449  
agency. 67450

(3) When a county board of developmental disabilities 67451  
receives a report under this section that includes an allegation 67452  
of action or inaction that may constitute a crime under federal 67453  
law or the law of this state, the superintendent of the board or 67454  
an individual the superintendent designates under division (H) of 67455  
this section shall notify the law enforcement agency. The 67456  
superintendent or individual shall notify the department of 67457  
developmental disabilities when it receives any report under this 67458  
section. 67459

(4) When a county board of developmental disabilities 67460  
receives a report under this section and believes that the degree 67461  
of risk to the person is such that the report is an emergency, the 67462  
superintendent of the board or an employee of the board the 67463  
superintendent designates shall attempt a face-to-face contact 67464  
with the person with mental retardation or a developmental 67465  
disability who allegedly is the victim within one hour of the 67466  
board's receipt of the report. 67467

(H) The superintendent of the board may designate an 67468  
individual to be responsible for notifying the law enforcement 67469  
agency and the department when the county board receives a report 67470  
under this section. 67471

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code

and the law enforcement agency shall make the written report of 67504  
its findings to the county board. 67505

(K) Any person or any hospital, institution, school, health 67506  
department, or agency participating in the making of reports 67507  
pursuant to this section, any person participating as a witness in 67508  
an administrative or judicial proceeding resulting from the 67509  
reports, or any person or governmental entity that discharges 67510  
responsibilities under sections 5126.31 to 5126.33 of the Revised 67511  
Code shall be immune from any civil or criminal liability that 67512  
might otherwise be incurred or imposed as a result of such actions 67513  
except liability for perjury, unless the person or governmental 67514  
entity has acted in bad faith or with malicious purpose. 67515

(L) No employer or any person with the authority to do so 67516  
shall discharge, demote, transfer, prepare a negative work 67517  
performance evaluation, reduce pay or benefits, terminate work 67518  
privileges, or take any other action detrimental to an employee or 67519  
retaliate against an employee as a result of the employee's having 67520  
made a report under this section. This division does not preclude 67521  
an employer or person with authority from taking action with 67522  
regard to an employee who has made a report under this section if 67523  
there is another reasonable basis for the action. 67524

(M) Reports made under this section are not public records as 67525  
defined in section 149.43 of the Revised Code. Information 67526  
contained in the reports on request shall be made available to the 67527  
person who is the subject of the report, to the person's legal 67528  
counsel, and to agencies authorized to receive information in the 67529  
report by the department or by a county board of developmental 67530  
disabilities. 67531

(N) Notwithstanding section 4731.22 of the Revised Code, the 67532  
physician-patient privilege shall not be a ground for excluding 67533  
evidence regarding the injuries or physical neglect of a person 67534  
with mental retardation or a developmental disability or the cause 67535

thereof in any judicial proceeding resulting from a report 67536  
submitted pursuant to this section. 67537

**Sec. 5123.89.** (A) All certificates, applications, records, 67538  
and reports made for the purpose of this chapter, other than court 67539  
journal entries or court docket entries, which directly or 67540  
indirectly identify a resident or former resident of an 67541  
institution for the mentally retarded or person whose 67542  
institutionalization has been sought under this chapter shall be 67543  
kept confidential and shall not be disclosed by any person except 67544  
in the following situations: 67545

(1) It is the judgment of the court for judicial records, and 67546  
the managing officer for institution records, that disclosure is 67547  
in the best interest of the person identified, and that person or 67548  
that person's guardian or, if that person is a minor, that 67549  
person's parent or guardian consents. 67550

(2) Disclosure is provided for in other sections of this 67551  
chapter. 67552

(3) It is the judgment of the managing officer for 67553  
institution records that disclosure to a mental health facility is 67554  
in the best interest of the person identified. 67555

(4) Disclosure is of a record deposited with the Ohio 67556  
historical society pursuant to division (C) of section 5123.31 of 67557  
the Revised Code and the disclosure is made to the closest living 67558  
relative of the person identified, on the relative's request. 67559

(B) The department of developmental disabilities shall adopt 67560  
rules with respect to the systematic and periodic destruction of 67561  
residents' records. 67562

(C)(1) As used in this division, "family" means a parent, 67563  
brother, sister, spouse, son, daughter, grandparent, aunt, uncle, 67564  
or cousin. 67565

(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;

~~(4)~~(E) A former employee of ~~the~~ a county board whose employment ~~with the county board~~ ceased less than ~~one~~ four calendar ~~year~~ years before the former employee would begin to serve as a member of the same county board;

~~(5) An (F) A former employee of a county board whose  
employment ceased less than two years before the former employee  
would begin to serve as a member of a different county board;~~ 67596  
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~~(G) Unless there is no conflict of interest, an individual  
who or whose immediate family member is a board member or an  
employee of an agency licensed or certified by the department of  
developmental disabilities to provide services to individuals with  
mental retardation or developmental disabilities or an individual  
who or whose immediate family member is an employee of such an  
agency;~~ 67599  
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~~(6) An individual who or whose immediate family member is a  
board member or employee of an agency contracting with the county  
board that is not licensed or certified by the department of  
developmental disabilities to provide services to individuals with  
mental retardation or developmental disabilities unless there is  
no conflict of interest;~~ 67606  
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~~(7)(H) An individual with an immediate family member who  
serves as a county commissioner of a county served by the county  
board unless the individual was a member of the county board  
before October 31, 1980.~~ 67612  
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~~(B) All questions relating to the existence of a conflict of  
interest for the purpose of division (A)(6) of this section shall  
be submitted to the local prosecuting attorney for resolution. The  
Ohio ethics commission may examine any issues arising under  
Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the  
Revised Code.~~ 67616  
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**Sec. 5126.0220. (A)** The superintendent of the county board of 67622  
developmental disabilities shall do all of the following: 67623

~~(A)(1) Administer the work of the board, subject to the  
board's rules;~~ 67624  
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~~(B)~~(2) Recommend to the board the changes necessary to 67626  
increase the effectiveness of the programs and services offered 67627  
pursuant to Chapters 3323. and 5126. of the Revised Code; 67628

~~(C)~~(3) Employ persons for all positions authorized by the 67629  
board, approve contracts of employment for management employees 67630  
that are for a term of one year or less, and approve personnel 67631  
actions that involve employees in the classified civil service as 67632  
may be necessary for the work of the board; 67633

~~(D)~~(4) Approve compensation for employees within the limits 67634  
set by the salary schedule and budget set by the board ~~and in~~ 67635  
~~accordance with section 5126.26 of the Revised Code~~, and ensure 67636  
that all employees and consultants are properly reimbursed for 67637  
actual and necessary expenses incurred in the performance of 67638  
official duties; 67639

~~(E)~~(5) Provide consultation to public agencies as defined in 67640  
division (C) of section 102.01 of the Revised Code, including 67641  
other county boards of developmental disabilities, and to 67642  
individuals, agencies, or organizations providing services 67643  
supported by the board. 67644

(B) The superintendent may authorize the payment of board 67645  
obligations by the county auditor. 67646

**Sec. 5126.0221.** (A) As used in this section, "specialized 67647  
services" has the same meaning as in section ~~5126.281~~ 5123.081 of 67648  
the Revised Code. 67649

(B) Except as provided in division (C) of section 5126.033 of 67650  
the Revised Code, none of the following individuals may be 67651  
employed by a county board of developmental disabilities: 67652

(1) An employee of an agency contracting with the county 67653  
board; 67654

(2) An immediate family member of an employee of an agency 67655

contracting with the county board unless the county board adopts a 67656  
resolution authorizing the immediate family member's employment 67657  
with the county board or the employment is consistent with a 67658  
policy adopted by the board establishing parameters for such 67659  
employment and the policy is consistent with Chapter 102. and 67660  
sections 2921.42, 2921.421, and 2921.43 of the Revised Code; 67661

(3) An individual with an immediate family member who serves 67662  
as a county commissioner of any of the counties served by the 67663  
county board unless the individual was an employee of the county 67664  
board before October 31, 1980; 67665

(4) An individual who is employed by, has an ownership 67666  
interest in, performs or provides administrative duties for, or is 67667  
a member of the governing board of an entity that provides 67668  
specialized services, regardless of whether the entity contracts 67669  
with the county board to provide specialized services. 67670

~~Sec. 5126.043. When an individual with mental retardation or 67671  
other developmental disability is required within this chapter to 67672  
consent, refuse to give consent, or withdraw consent for services 67673  
and the individual has been adjudicated incompetent pursuant to 67674  
Chapter 2111. of the Revised Code, the guardian for the individual 67675  
appointed under that chapter and functioning in accordance with 67676  
the appointment shall be responsible for giving, refusing to give, 67677  
or withdrawing the consent for services. 67678~~

Individuals (A) Unless a guardian has been appointed for the 67679  
individual, when a decision regarding receipt of a service or 67680  
participation in a program provided for or funded under this 67681  
chapter or Chapter 5123. of the Revised Code by an individual with 67682  
mental retardation or other developmental disability must be made, 67683  
the individual shall be permitted to make the decision. The 67684  
individual may obtain support and guidance from an adult family 67685  
member or other person, but doing so does not affect the right of 67686

the individual to make the decision. 67687

(B) An individual with mental retardation or other 67688  
developmental disability may authorize an adult to make a decision 67689  
described in division (A) of this section on the individual's 67690  
behalf, as long as the adult does not have a financial interest in 67691  
the decision. The authorization shall be made in writing. 67692

(C) If a guardian has been appointed for an individual with 67693  
mental retardation or other developmental disability, the guardian 67694  
shall make any decision described in division (A) of this section 67695  
on behalf of the individual. This section does not require 67696  
appointment of a guardian. 67697

(D) Individuals with mental retardation and other 67698  
developmental disabilities, including those who have been 67699  
adjudicated incompetent pursuant to Chapter 2111. of the Revised 67700  
Code, have the right to participate in decisions that affect their 67701  
lives and to have their needs, desires, and preferences 67702  
considered. An adult or guardian who makes a decision pursuant to 67703  
division (B) or (C) of this section shall make a decision that is 67704  
in the best interests of the individual on whose behalf the 67705  
decision is made and that is consistent with the needs, desires, 67706  
and preferences of that individual. 67707

**Sec. 5126.046.** ~~(A) Each county board of developmental 67708~~  
~~disabilities that has medicaid local administrative authority 67709~~  
~~under division (A) of section 5126.055 of the Revised Code for 67710~~  
~~habilitation, vocational, or community employment services 67711~~  
~~provided as part of home and community based services shall create 67712~~  
~~a list of all persons and government entities eligible to provide 67713~~  
~~such habilitation, vocational, or community employment services. 67714~~  
~~If the county board chooses and is eligible to provide such 67715~~  
~~habilitation, vocational, or community employment services, the 67716~~  
~~county board shall include itself on the list. The county board 67717~~

~~shall make the list available to each individual with mental 67718  
retardation or other developmental disability who resides in the 67719  
county and is eligible for such habilitation, vocational, or 67720  
community employment services. The county board shall also make 67721  
the list available to such individuals' families. 67722~~

~~An Except as otherwise provided by 42 C.F.R. 431.51, an 67723  
individual with mental retardation or other developmental 67724  
disability who is eligible for habilitation, vocational, or 67725  
community employment home and community-based services may choose 67726  
the has the right to obtain the services from any provider of the 67727  
services. 67728~~

~~(B) Each month, the department of developmental disabilities 67729  
shall create a list of all persons and government entities 67730  
eligible to provide residential services and supported living. The 67731  
department shall include on the list all residential facilities 67732  
licensed under section 5123.19 of the Revised Code and all 67733  
supported living providers certified under section 5123.161 of the 67734  
Revised Code. The department shall distribute the monthly lists to 67735  
county boards that have local administrative authority under 67736  
division (A) of section 5126.055 of the Revised Code for 67737  
residential services and supported living provided as part of home 67738  
and community-based services. A county board that receives a list 67739  
shall make it available to each individual with mental retardation 67740  
or other developmental disability who resides in the county and is 67741  
eligible for such residential services or supported living. The 67742  
county board shall also make the list available to the families of 67743  
those individuals that is qualified to furnish the services and is 67744  
willing to furnish the services to the individual. A county board 67745  
of developmental disabilities that has medicaid local 67746  
administrative authority under division (A) of section 5126.055 of 67747  
the Revised Code for home and community-based services and refuses 67748  
to permit an individual to obtain home and community-based 67749~~

services from a qualified and willing provider shall provide the 67750  
individual timely notice that the individual may request a hearing 67751  
under section 5101.35 of the Revised Code. 67752

(B) An individual with mental retardation or other 67753  
developmental disability who is eligible for nonmedicaid 67754  
residential services or nonmedicaid supported living may choose 67755  
the has the right to obtain the services from any provider of the 67756  
residential services or supported living that is qualified to 67757  
furnish the residential services or supported living and is 67758  
willing to furnish the residential services or supported living to 67759  
the individual. 67760

~~(C) If a county board that has medicaid local administrative~~ 67761  
~~authority under division (A) of section 5126.055 of the Revised~~ 67762  
~~Code for home and community based services violates the right~~ 67763  
~~established by this section of an individual to choose a provider~~ 67764  
~~that is qualified and willing to provide services to the~~ 67765  
~~individual, the individual shall receive timely notice that the~~ 67766  
~~individual may request a hearing under section 5101.35 of the~~ 67767  
~~Revised Code. The department of developmental disabilities shall~~ 67768  
make available to the public on its internet web site an 67769  
up-to-date list of all providers of home and community-based 67770  
services, nonmedicaid residential services, and nonmedicaid 67771  
supported living. County boards shall assist individuals with 67772  
mental retardation or other developmental disabilities and the 67773  
families of such individuals access the list on the department's 67774  
internet web site. 67775

~~(D) The departments director~~ of developmental disabilities 67776  
~~and job and family services~~ shall adopt rules in accordance with 67777  
Chapter 119. of the Revised Code governing the implementation of 67778  
this section. The rules shall include procedures for individuals 67779  
to choose their ~~service~~ providers. The rules shall not be limited 67780  
by a provider selection system established under section 5126.42 67781

of the Revised Code, including any pool of providers created 67782  
pursuant to a provider selection system. 67783

**Sec. 5126.055.** (A) Except as provided in section 5126.056 of 67784  
the Revised Code, a county board of developmental disabilities has 67785  
medicaid local administrative authority to, and shall, do all of 67786  
the following for an individual with mental retardation or other 67787  
developmental disability who resides in the county that the county 67788  
board serves and seeks or receives home and community-based 67789  
services: 67790

(1) Perform assessments and evaluations of the individual. As 67791  
part of the assessment and evaluation process, the county board 67792  
shall do all of the following: 67793

(a) Make a recommendation to the department of developmental 67794  
disabilities on whether the department should approve or deny the 67795  
individual's application for the services, including on the basis 67796  
of whether the individual needs the level of care an intermediate 67797  
care facility for the mentally retarded provides; 67798

(b) If the individual's application is denied because of the 67799  
county board's recommendation and the individual requests a 67800  
hearing under section 5101.35 of the Revised Code, present, with 67801  
the department of developmental disabilities or department of job 67802  
and family services, whichever denies the application, the reasons 67803  
for the recommendation and denial at the hearing; 67804

(c) If the individual's application is approved, recommend to 67805  
the departments of developmental disabilities and job and family 67806  
services the services that should be included in the individual's 67807  
individualized service plan and, if either department approves, 67808  
reduces, denies, or terminates a service included in the 67809  
individual's individualized service plan under section 5111.871 of 67810  
the Revised Code because of the county board's recommendation, 67811  
present, with the department that made the approval, reduction, 67812

denial, or termination, the reasons for the recommendation and 67813  
approval, reduction, denial, or termination at a hearing under 67814  
section 5101.35 of the Revised Code. 67815

(2) ~~In accordance with the rules adopted under section~~ 67816  
~~5126.046 of the Revised Code, perform the county board's~~ Perform 67817  
any duties assigned to the county board in rules adopted 67818  
~~that~~ section 5126.046 of the Revised Code regarding ~~assisting~~ the 67819  
individual's right to choose a qualified and willing provider of 67820  
the services and, at a hearing under section 5101.35 of the 67821  
Revised Code, present evidence of the process for appropriate 67822  
assistance in choosing providers; 67823

(3) If the county board is certified under section 5123.161 67824  
of the Revised Code to provide the services and agrees to provide 67825  
the services to the individual and the individual chooses the 67826  
county board to provide the services, furnish, in accordance with 67827  
the county board's medicaid provider agreement and for the 67828  
authorized reimbursement rate, the services the individual 67829  
requires; 67830

(4) Monitor the services provided to the individual and 67831  
ensure the individual's health, safety, and welfare. The 67832  
monitoring shall include quality assurance activities. If the 67833  
county board provides the services, the department of 67834  
developmental disabilities shall also monitor the services. 67835

(5) Develop, with the individual and the provider of the 67836  
individual's services, an effective individualized service plan 67837  
that includes coordination of services, recommend that the 67838  
departments of developmental disabilities and job and family 67839  
services approve the plan, and implement the plan unless either 67840  
department disapproves it. The individualized service plan shall 67841  
include a summary page, agreed to by the county board, provider, 67842  
and individual receiving services, that clearly outlines the 67843  
amount, duration, and scope of services to be provided under the 67844

plan. 67845

(6) Have an investigative agent conduct investigations under 67846  
section 5126.313 of the Revised Code that concern the individual; 67847

(7) Have a service and support administrator perform the 67848  
duties under division (B)(9) of section 5126.15 of the Revised 67849  
Code that concern the individual. 67850

(B) A county board shall perform its medicaid local 67851  
administrative authority under this section in accordance with all 67852  
of the following: 67853

(1) The county board's plan that the department of 67854  
developmental disabilities approves under section 5123.046 of the 67855  
Revised Code; 67856

(2) All applicable federal and state laws; 67857

(3) All applicable policies of the departments of 67858  
developmental disabilities and job and family services and the 67859  
United States department of health and human services; 67860

(4) The department of job and family services' supervision 67861  
under its authority under section 5111.01 of the Revised Code to 67862  
act as the single state medicaid agency; 67863

(5) The department of developmental disabilities' oversight. 67864

(C) The departments of developmental disabilities and job and 67865  
family services shall communicate with and provide training to 67866  
county boards regarding medicaid local administrative authority 67867  
granted by this section. The communication and training shall 67868  
include issues regarding audit protocols and other standards 67869  
established by the United States department of health and human 67870  
services that the departments determine appropriate for 67871  
communication and training. County boards shall participate in the 67872  
training. The departments shall assess the county board's 67873  
compliance against uniform standards that the departments shall 67874

establish. 67875

(D) A county board may not delegate its medicaid local 67876  
administrative authority granted under this section but may 67877  
contract with a person or government entity, including a council 67878  
of governments, for assistance with its medicaid local 67879  
administrative authority. A county board that enters into such a 67880  
contract shall notify the director of developmental disabilities. 67881  
The notice shall include the tasks and responsibilities that the 67882  
contract gives to the person or government entity. The person or 67883  
government entity shall comply in full with all requirements to 67884  
which the county board is subject regarding the person or 67885  
government entity's tasks and responsibilities under the contract. 67886  
The county board remains ultimately responsible for the tasks and 67887  
responsibilities. 67888

(E) A county board that has medicaid local administrative 67889  
authority under this section shall, through the departments of 67890  
developmental disabilities and job and family services, reply to, 67891  
and cooperate in arranging compliance with, a program or fiscal 67892  
audit or program violation exception that a state or federal audit 67893  
or review discovers. The department of job and family services 67894  
shall timely notify the department of developmental disabilities 67895  
and the county board of any adverse findings. After receiving the 67896  
notice, the county board, in conjunction with the department of 67897  
developmental disabilities, shall cooperate fully with the 67898  
department of job and family services and timely prepare and send 67899  
to the department a written plan of correction or response to the 67900  
adverse findings. The county board is liable for any adverse 67901  
findings that result from an action it takes or fails to take in 67902  
its implementation of medicaid local administrative authority. 67903

(F) If the department of developmental disabilities or 67904  
department of job and family services determines that a county 67905  
board's implementation of its medicaid local administrative 67906

authority under this section is deficient, the department that 67907  
makes the determination shall require that county board do the 67908  
following: 67909

(1) If the deficiency affects the health, safety, or welfare 67910  
of an individual with mental retardation or other developmental 67911  
disability, correct the deficiency within twenty-four hours; 67912

(2) If the deficiency does not affect the health, safety, or 67913  
welfare of an individual with mental retardation or other 67914  
developmental disability, receive technical assistance from the 67915  
department or submit a plan of correction to the department that 67916  
is acceptable to the department within sixty days and correct the 67917  
deficiency within the time required by the plan of correction. 67918

**Sec. 5126.13.** (A) A county board of developmental 67919  
disabilities may enter into an agreement with one or more other 67920  
county boards of developmental disabilities to establish a 67921  
regional council in accordance with Chapter 167. of the Revised 67922  
Code. The agreement shall specify the duties and functions to be 67923  
performed by the council, which may include any duty or function a 67924  
county board is required or authorized to perform under this 67925  
chapter. ~~If directed to do so by a resolution adopted by a county 67926  
board that is a member of a regional council, the department of 67927  
developmental disabilities shall make any distributions of money 67928  
for that county for the duties or functions performed by the 67929  
council pursuant to its agreement that are otherwise required to 67930  
be made to the county board under this chapter to the fiscal 67931  
officer of the council designated under section 167.04 of the 67932  
Revised Code.~~ 67933

A county board may also enter into an agreement with one or 67934  
more school districts or other political subdivisions to establish 67935  
a regional council in accordance with Chapter 167. of the Revised 67936  
Code. 67937

(B) On or before the thirtieth day of March, the fiscal officer of a regional council described in this section shall report to the department of developmental disabilities, in the format specified by the department, all income and operating expenditures of the council for the immediately preceding calendar year.

**Sec. 5126.15.** (A) A county board of developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and support administration. Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.

Individuals employed by a board as service and support administrators shall not be assigned responsibilities for implementing other services for individuals and shall not be

employed by or serve in a decision-making or policy-making 67969  
capacity for any other entity that provides programs or services 67970  
to individuals with mental retardation or developmental 67971  
disabilities. An individual employed as a conditional status 67972  
service and support administrator shall perform the duties of 67973  
service and support administration only under the supervision of a 67974  
management employee who is a service and support administration 67975  
supervisor. 67976

(B) The individuals employed by or under contract with a 67977  
board to provide service and support administration shall do all 67978  
of the following: 67979

(1) Establish an individual's eligibility for the services of 67980  
the county board of developmental disabilities; 67981

(2) Assess individual needs for services; 67982

(3) Develop individual service plans with the active 67983  
participation of the individual to be served, other persons 67984  
selected by the individual, and, when applicable, the provider 67985  
selected by the individual, and recommend the plans for approval 67986  
by the department of developmental disabilities when services 67987  
included in the plans are funded through medicaid; 67988

(4) Establish budgets for services based on the individual's 67989  
assessed needs and preferred ways of meeting those needs; 67990

(5) Assist individuals in making selections from among the 67991  
providers they have chosen; 67992

(6) Ensure that services are effectively coordinated and 67993  
provided by appropriate providers; 67994

(7) Establish and implement an ongoing system of monitoring 67995  
the implementation of individual service plans to achieve 67996  
consistent implementation and the desired outcomes for the 67997  
individual; 67998

(8) Perform quality assurance reviews as a distinct function of service and support administration; 67999  
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(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual; 68001  
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~~(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day to day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.~~ 68006  
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**Sec. 5126.20.** As used in this section and sections 5126.21 to ~~5126.29~~ 5126.25 of the Revised Code: 68017  
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(A) "Service employee" means a person employed by a county board of developmental disabilities in a position which may require ~~evidence of~~ registration under section 5126.25 of the Revised Code but for which a bachelor's degree from an accredited college or university is not required, and includes employees in the positions listed in division (C) of section 5126.22 of the Revised Code. 68019  
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(B)(1) "Professional employee" means both of the following: 68026

(a) A person employed by a board in a position for which either a bachelor's degree from an accredited college or 68027  
68028

university or a license or certificate issued under Title XLVII of 68029  
the Revised Code is a minimum requirement; 68030

(b) A person employed by a board as a conditional status 68031  
service and support administrator. 68032

(2) "Professional employee" includes employees in the 68033  
positions listed in division (B) of section 5126.22 of the Revised 68034  
Code. 68035

(C) "Management employee" means a person employed by a board 68036  
in a position having supervisory or managerial responsibilities 68037  
and duties, and includes employees in the positions listed in 68038  
division (A) of section 5126.22 of the Revised Code. 68039

(D) "Limited contract" means a contract of limited duration 68040  
which is renewable at the discretion of the superintendent. 68041

~~(E) "Continuing contract" means a contract of employment that 68042  
was issued prior to June 24, 1988, to a classified employee under 68043  
which the employee has completed the employee's probationary 68044  
period and under which the employee retains employment until the 68045  
employee retires or resigns, is removed pursuant to section 68046  
5126.23 of the Revised Code, or is laid off. 68047~~

~~(F)~~ "Supervisory responsibilities and duties" includes the 68048  
authority to hire, transfer, suspend, lay off, recall, promote, 68049  
discharge, assign, reward, or discipline other employees of the 68050  
board; to responsibly direct them; to adjust their grievances; or 68051  
to effectively recommend such action, if the exercise of that 68052  
authority is not of a merely routine or clerical nature but 68053  
requires the use of independent judgment. 68054

~~(G)~~(F) "Managerial responsibilities and duties" includes 68055  
formulating policy on behalf of the board, responsibly directing 68056  
the implementation of policy, assisting in the preparation for the 68057  
conduct of collective negotiations, administering collectively 68058  
negotiated agreements, or having a major role in personnel 68059

administration. 68060

~~(H)~~(G) "Investigative agent" means an individual who conducts 68061  
investigations under section 5126.313 of the Revised Code. 68062

**Sec. 5126.21.** As used in this section, "management employee" 68063  
does not include the superintendent of a county board of 68064  
developmental disabilities. 68065

(A)(1) Each management employee of a county board of 68066  
developmental disabilities shall hold a limited contract for a 68067  
period of not less than one year and not more than five years, 68068  
except that a management employee hired after the beginning of a 68069  
program year may be employed under a limited contract expiring at 68070  
the end of the program year. The board shall approve all contracts 68071  
of employment for management employees that are for a term of more 68072  
than one year. A management employee shall receive notice of the 68073  
superintendent's intention not to rehire the employee at least 68074  
ninety days prior to the expiration of the contract. ~~If the 68075  
superintendent fails to notify a management employee, the employee 68076  
shall be reemployed under a limited contract of one year at the 68077  
same salary plus any authorized salary increases. 68078~~

(2) During the term of a contract a management employee's 68079  
salary may be increased, but shall not be reduced unless the 68080  
reduction is part of a uniform plan affecting all employees of the 68081  
board. 68082

(B) All management employees may be removed, suspended, or 68083  
demoted for cause pursuant to section 5126.23 of the Revised Code. 68084

(C) All management employees shall receive employee benefits 68085  
~~that shall include sick leave, vacation leave, holiday pay, and 68086  
such other benefits~~ as are established by the board. Sections 68087  
124.38 and 325.19 of the Revised Code do not apply to management 68088  
employees. 68089

(D) The superintendent of a county board of developmental disabilities shall notify all management employees of the board of their salary no later than thirty days before the first day of the new contract year. 68090  
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~~(E) All management employees of a county board of developmental disabilities who were given continuing contract status prior to the effective date of this section have continuing contract status so long as they maintain employment with the board.~~ 68094  
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~~(F) All management employees who were probationary employees on the effective date of this section shall, upon completion of their probationary period, be granted continuing contract status if retained in employment.~~ 68099  
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~~(G) Each county board of developmental disabilities shall establish a lay-off policy to be followed if it determines a reduction in the number of management employees is necessary.~~ 68103  
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**Sec. 5126.22.** (A) Employees who hold the following positions in a county board of developmental disabilities are management employees: 68106  
68107  
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assistant superintendent 68109

director of business 68110

director of personnel 68111

adult services director 68112

workshop director 68113

habilitation manager 68114

director of residential services 68115

principal (director of children services) 68116

program or service supervisor 68117

|  |                         |
|--|-------------------------|
| plant manager  | 68118                   |
| production manager   | 68119                   |
| service and support administration supervisor  | 68120                   |
| investigative agent  | 68121                   |
| confidential employees as defined in section 4117.01 of the<br>Revised Code  | 68122<br>68123          |
| positions designated by the director of developmental<br>disabilities as having managerial or supervisory responsibilities<br>and duties | 68124<br>68125<br>68126 |
| positions designated by the county board in accordance with<br>division (D) of this section.   | 68127<br>68128          |
| (B) Employees who hold the following positions in a board are<br>professional employees:   | 68129<br>68130          |
| personnel <u>licensed or</u> certified pursuant to Chapter 3319. of<br>the Revised Code  | 68131<br>68132          |
| early intervention specialist  | 68133                   |
| physical development specialist  | 68134                   |
| habilitation specialist  | 68135                   |
| work adjustment specialist   | 68136                   |
| placement specialist   | 68137                   |
| vocational evaluator   | 68138                   |
| psychologist   | 68139                   |
| occupational therapist   | 68140                   |
| speech and language pathologist  | 68141                   |
| recreation specialist  | 68142                   |
| behavior management specialist   | 68143                   |
| physical therapist   | 68144                   |

|   |                                  |
|---|----------------------------------|
| supportive home services specialist   | 68145                            |
| licensed practical nurse or registered nurse  | 68146                            |
| rehabilitation counselor  | 68147                            |
| doctor of medicine and surgery or of osteopathic medicine and<br>surgery  | 68148<br>68149                   |
| dentist   | 68150                            |
| service and support administrator   | 68151                            |
| conditional status service and support administrator  | 68152                            |
| social worker   | 68153                            |
| any position that is not a management position and for which<br>the standards for certification established by the director of<br>developmental disabilities under section 5126.25 of the Revised<br>Code require a bachelor's or higher degree | 68154<br>68155<br>68156<br>68157 |
| professional positions designated by the director   | 68158                            |
| professional positions designated by the county board in<br>accordance with division (D) of this section.   | 68159<br>68160                   |
| (C) Employees who hold positions in a board that are neither<br>management positions nor professional positions are service<br>employees. Service employee positions include:   | 68161<br>68162<br>68163          |
| workshop specialist   | 68164                            |
| workshop specialist assistant   | 68165                            |
| contract procurement specialist   | 68166                            |
| community employment specialist   | 68167                            |
| any assistant to a professional employee certified to<br>provide, or supervise the provision of, adult services or service<br>and support administration  | 68168<br>68169<br>68170          |
| service positions designated by the director  | 68171                            |

service positions designated by a county board in accordance 68172  
with division (D) of this section. 68173

(D) A county board may designate a position only if the 68174  
position does not include directly providing, or supervising 68175  
employees who directly provide, service or instruction to 68176  
individuals with mental retardation or developmental disabilities. 68177

(E) If a county board desires to have a position established 68178  
that is not specifically listed in this section that includes 68179  
directly providing, or supervising employees who directly provide, 68180  
services or instruction to individuals with mental retardation or 68181  
developmental disabilities, the board shall submit to the director 68182  
a written description of the position and request that the 68183  
director designate the position as a management, professional, or 68184  
service position under this section. The director shall consider 68185  
each request submitted under this division and respond within 68186  
thirty days. If the director approves the request, the director 68187  
shall designate the position as a management, professional, or 68188  
service position. 68189

(F) A county board shall not terminate its employment of any 68190  
management, professional, or service employee solely because a 68191  
position is added to or eliminated from those positions listed in 68192  
this section or because a position is designated or no longer 68193  
designated by the director or a county board. 68194

**Sec. 5126.25.** (A) The director of developmental disabilities 68195  
shall adopt rules ~~in accordance with Chapter 119. of the Revised~~ 68196  
~~Code~~ under division (C) of this section establishing uniform 68197  
standards and procedures for the certification and registration of 68198  
persons ~~for employment by county boards of developmental~~ 68199  
~~disabilities as superintendents, management employees, and~~ 68200  
~~professional employees and uniform standards and procedures for~~ 68201  
~~the registration of persons for employment by county boards as~~ 68202

~~registered service employees. As part of the rules, the director 68203  
may establish continuing education and professional training 68204  
requirements for renewal of certificates and evidence of 68205  
registration and shall establish such requirements for renewal of 68206  
an investigative agent certificate. In the rules, the director 68207  
shall establish certification standards for employment in the 68208  
position of investigative agent that require an individual to have 68209  
or obtain no less than an associate degree from an accredited 68210  
college or university or have or obtain comparable experience or 68211  
training. The director shall not adopt rules that require any 68212  
service employee to have or obtain a bachelor's or higher degree. 68213~~

~~The director shall adopt the rules in a manner that provides 68214  
for the issuance of certificates and evidence of registration 68215  
according to categories, levels, and grades. The rules shall 68216  
describe each category, level, and grade. 68217~~

~~The rules adopted under this division shall apply to persons 68218  
employed or seeking employment in a position that includes 68219  
directly providing, or supervising persons who directly provide, 68220  
services or instruction to or on behalf of individuals with mental 68221  
retardation or developmental disabilities, except that the rules 68222  
shall not apply to persons who hold a valid license issued under 68223  
Chapter 3319. of the Revised Code and perform no duties other than 68224  
teaching or supervision of a teaching program or persons who hold 68225  
a valid license or certificate issued under Title XLVII of the 68226  
Revised Code and perform only those duties governed by the license 68227  
or certificate. The rules shall specify the positions that require 68228  
certification or registration. The rules shall specify that the 68229  
position of investigative agent requires certification, other than 68230  
the persons described in division (I) of this section, who are 68231  
seeking employment with or are employed by either of the 68232  
following: 68233~~

(1) A county board of developmental disabilities; 68234

(2) An entity that contracts with a county board to operate programs and services for individuals with mental retardation or developmental disabilities. 68235  
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(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. 68238  
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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: 68245  
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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; 68260  
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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, 68264  
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specialized training, and experience, taking into account the 68267  
needs of individuals with mental retardation or developmental 68268  
disabilities and the specialized techniques needed to serve them, 68269  
except that the rules shall not require a person designated as a 68270  
service employee under section 5126.22 of the Revised Code to have 68271  
or obtain a bachelor's or higher degree; 68272

(3) Procedures to be followed in applying for initial 68273  
certification or registration and for renewing the certification 68274  
or registration. 68275

(4) Requirements that must be met for renewal of 68276  
certification or registration, which may include continuing 68277  
education and professional training requirements; 68278

(5) Subject to section 5126.23 of the Revised Code, grounds 68279  
for which certification or registration may be denied, suspended, 68280  
or revoked and procedures for appealing the denial, suspension, or 68281  
revocation. 68282

~~(C)(D) Each applicant for a certificate for employment or~~ 68283  
~~evidence of person seeking certification or registration for~~ 68284  
~~employment by a county board shall apply to the department of~~ 68285  
~~developmental disabilities on forms that the director of the~~ 68286  
~~department shall prescribe and provide. The application shall be~~ 68287  
~~accompanied by the application fee in the manner established in~~ 68288  
~~rules adopted under this section.~~ 68289

~~(D) The director shall issue a certificate for employment to~~ 68290  
~~each applicant who meets the standards for certification~~ 68291  
~~established under this section and shall issue evidence of~~ 68292  
~~registration for employment to each applicant who meets the~~ 68293  
~~standards for registration established under this section. Each~~ 68294  
~~certificate or evidence of registration shall state the category,~~ 68295  
~~level, and grade for which it is issued.~~ 68296

~~The director shall issue, renew, deny, suspend, or revoke~~ 68297

~~certificates and evidence of registration in accordance with rules 68298  
adopted under this section. The director shall deny, suspend, or 68299  
revoke a certificate or evidence of registration if the director 68300  
finds, pursuant to an adjudication conducted in accordance with 68301  
Chapter 119. of the Revised Code, that the applicant for or holder 68302  
of the certificate or evidence of registration is guilty of 68303  
intemperate, immoral, or other conduct unbecoming to the 68304  
applicant's or holder's position, or is guilty of incompetence or 68305  
negligence within the scope of the applicant's or holder's duties. 68306  
The director shall deny or revoke a certificate or evidence of 68307  
registration if the director finds, pursuant to an adjudication 68308  
conducted in accordance with Chapter 119. of the Revised Code, 68309  
that the applicant for or holder of the certificate or evidence of 68310  
registration has been convicted of or pleaded guilty to any of the 68311  
offenses described in division (E) of section 5126.29 of the 68312  
Revised Code, unless the individual meets standards for 68313  
rehabilitation that the director establishes in the rules adopted 68314  
under that section. Evidence supporting such allegations shall be 68315  
presented to the director in writing and the director shall 68316  
provide prompt notice of the allegations to the person who is the 68317  
subject of the allegations. A denial, suspension, or revocation 68318  
may be appealed in accordance with procedures the director shall 68319  
establish in the rules adopted under this section. 68320~~

(E)(1) Except as provided in division (E)(2) of this section, 68321  
the superintendent of each county board is responsible for taking 68322  
all actions regarding certification and registration of employees, 68323  
other than the position of superintendent or investigative agent. 68324  
For the position of superintendent or investigative agent, the 68325  
director of developmental disabilities is responsible for taking 68326  
all such actions. 68327

Actions that may be taken by the superintendent or director 68328  
include issuing, renewing, denying, suspending, and revoking 68329

certification and registration. All actions shall be taken in 68330  
accordance with the rules adopted under this section. 68331

The superintendent may charge a fee to persons applying for 68332  
certification or registration. The superintendent shall establish 68333  
the amount of the fee according to the costs the county board 68334  
incurs in administering its program for certification and 68335  
registration of employees. 68336

A person subject to the denial, suspension, or revocation of 68337  
certification or registration may appeal the decision. The appeal 68338  
shall be made in accordance with the rules adopted under this 68339  
section. 68340

(2) Pursuant to division (C) of section 5126.05 of the 68341  
Revised Code, the superintendent may enter into a contract with 68342  
any other entity under which the entity is given authority to 68343  
carry out all or part of the superintendent's responsibilities 68344  
under division (E)(1) of this section. 68345

(F) A person ~~holding a~~ with valid certificate certification 68346  
or registration under this section on the effective date of any 68347  
rules adopted under this section that increase the standards 68348  
applicable to the certification ~~standards~~ or registration shall 68349  
have such period as the rules prescribe, but not less than one 68350  
year after the effective date of the rules, to meet the new 68351  
certification or registration standards. 68352

~~A person who is registered under this section on the~~ 68353  
~~effective date of any rule that changes the standards adopted~~ 68354  
~~under this section shall have such period as the rules prescribe,~~ 68355  
~~but not less than one year, to meet the new registration~~ 68356  
~~standards.~~ 68357

~~(2) If an applicant for a certificate for employment has not~~ 68358  
~~completed the courses of instruction necessary to meet the~~ 68359  
~~department's standards for certification, the department shall~~ 68360

~~inform the applicant of the courses the applicant must 68361  
successfully complete to meet the standards and shall specify the 68362  
time within which the applicant must complete the courses. The 68363  
department shall grant the applicant at least one year to complete 68364  
the courses and shall not require the applicant to complete more 68365  
than four courses in any one year. The applicant is not subject to 68366  
any changes regarding the courses required for certification that 68367  
are made after the department informs the applicant of the courses 68368  
the applicant must complete, unless the applicant does not 68369  
successfully complete the courses within the time specified by the 68370  
department. 68371~~

~~(F)(G) A person who holds a certificate with valid 68372  
certification or evidence of registration, other than one 68373  
designated as temporary, is qualified to be employed according to 68374  
that ~~certificate~~ certification or evidence of registration by any 68375  
county board or entity contracting with a county board. 68376~~

~~(G)(H) The director shall monitor county boards to ensure 68377  
that their employees ~~who must be certified or registered~~ are 68378  
~~appropriately certified or registered~~ and and the employees of 68379  
their contracting entities have the applicable certification or 68380  
registration required under this section and that the employees 68381  
are performing only those functions they are authorized to perform 68382  
under ~~their certificate~~ the certification or evidence of 68383  
registration. 68384~~

~~(H) A county board superintendent or the superintendent's 68385  
designee may certify to the director that county board employees 68386  
who are required to meet continuing education or professional 68387  
training requirements as a condition of renewal of certificates or 68388  
evidence of registration have met the requirements. The 68389  
superintendent of each county board or the superintendent's 68390  
designee shall maintain in appropriate personnel files evidence 68391  
acceptable to the director that the employees have met the 68392~~

requirements ~~and permit.~~ On request, representatives of the 68393  
department of developmental disabilities shall be given access to 68394  
the evidence ~~on request.~~ 68395

~~(I) All fees collected pursuant to this section shall be~~ 68396  
~~deposited in the state treasury to the credit of the program fee~~ 68397  
~~fund created under section 5123.033 of the Revised Code.~~ 68398

~~(J) Employees of entities that contract with county boards of~~ 68399  
~~developmental disabilities to operate programs and services for~~ 68400  
~~individuals with mental retardation and developmental disabilities~~ 68401  
~~are subject to the certification and registration requirements~~ 68402  
~~established under section 5123.082 of the Revised Code~~ The 68403  
certification and registration requirements of this section and 68404  
the rules adopted under it do not apply to either of the 68405  
following: 68406

(1) A person who holds a valid license issued or certificate 68407  
issued under Chapter 3319. of the Revised Code and performs no 68408  
duties other than teaching or supervision of a teaching program; 68409

(2) A person who holds a valid license or certificate issued 68410  
under Title XLVII of the Revised Code and performs only those 68411  
duties governed by the license or certificate. 68412

**Sec. 5126.251.** On receipt of a notice pursuant to section 68413  
3123.43 of the Revised Code, the director of developmental 68414  
disabilities or the superintendent of a county board of 68415  
developmental disabilities shall comply with sections 3123.41 to 68416  
3123.50 of the Revised Code and any applicable rules adopted under 68417  
section 3123.63 of the Revised Code with respect to ~~a certificate~~ 68418  
a person's certification or evidence of registration issued 68419  
~~pursuant to this chapter~~ under section 5126.25 of the Revised 68420  
Code. 68421

**Sec. 5126.51.** As used in sections 5126.51 to 5126.62 of the 68422

|   |   |
|---|---|
| Revised Code:   | 68423                                     |
| (A) "Develop" or "development," in contexts not referring to developmental disabilities, means construction or rehabilitation.  | 68424<br>68425                            |
| (B) "Eligible lending institution" means a financial institution that meets all of the following requirements:  | 68426<br>68427                            |
| (1) Is eligible to make commercial loans;   | 68428                                     |
| (2) Has an office located within the territorial limits of the county;  | 68429<br>68430                            |
| (3) Is an institution into which the county's investing authority may deposit the public moneys of the county;  | 68431<br>68432                            |
| (4) Holds itself out as participating in the residential facility linked deposit program.   | 68433<br>68434                            |
| (C) "Eligible organization" means <del>either of the following:</del>   | 68435                                     |
| <del>(1) A nonprofit corporation that has as its primary activity the development or operation of a residential facility;</del>   | 68436<br>68437                            |
| <del>(2) A nonprofit corporation certified under section 5123.192 of the Revised Code.</del>  | 68438<br>68439                            |
| (D) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.  | 68440<br>68441                            |
| (E) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code <del>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.</del> | 68442<br>68443<br>68444<br>68445<br>68446 |
| (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                    | 68447<br>68448<br>68449<br>68450<br>68451 |

"residential facility linked deposit loan" is a loan under, and 68452  
for the purposes of, the residential facility linked deposit 68453  
program. 68454

**Sec. 5139.41.** The appropriation made to the department of 68455  
youth services for care and custody of felony delinquents shall be 68456  
expended in accordance with the following procedure that the 68457  
department shall use for each year of a biennium. The procedure 68458  
shall be consistent with sections 5139.41 to 5139.43 of the 68459  
Revised Code and shall be developed in accordance with the 68460  
following guidelines: 68461

(A) The line item appropriation for the care and custody of 68462  
felony delinquents shall provide funding for operational costs for 68463  
the following: 68464

(1) Institutions and the diagnosis, care, or treatment of 68465  
felony delinquents at facilities pursuant to contracts entered 68466  
into under section 5139.08 of the Revised Code; 68467

(2) Community corrections facilities constructed, 68468  
reconstructed, improved, or financed as described in section 68469  
5139.36 of the Revised Code for the purpose of providing 68470  
alternative placement and services for felony delinquents who have 68471  
been diverted from care and custody in institutions; 68472

(3) County juvenile courts that administer programs and 68473  
services for prevention, early intervention, diversion, treatment, 68474  
and rehabilitation services and programs that are provided for 68475  
alleged or adjudicated unruly or delinquent children or for 68476  
children who are at risk of becoming unruly or delinquent 68477  
children; 68478

(4) Administrative expenses the department incurs in 68479  
connection with the felony delinquent care and custody programs 68480  
described in section 5139.43 of the Revised Code. 68481

(B) From the appropriated line item for the care and custody of felony delinquents, the department, with the advice of the RECLAIM advisory committee established under section 5139.44 of the Revised Code, shall allocate annual operational funds for county juvenile programs, institutional care and custody, community corrections facilities care and custody, and administrative expenses incurred by the department associated with felony delinquent care and custody programs. The department, with the advice of the RECLAIM advisory committee, shall adjust these allocations, when modifications to this line item are made by legislative or executive action.

(C) The department shall divide county juvenile program allocations among county juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children. The department shall base funding on the county's previous year's ratio of the department's institutional and community correctional facilities commitments to that county's ~~four-year~~ average of felony adjudications, as specified in the following formula:

(1) The department shall give to each county a proportional allocation of commitment credits. The proportional allocation of commitment credits shall be calculated by the following procedures:

(a) The department shall determine for each county and for the state ~~a four-year~~ an average of felony adjudications. Beginning July 1, 2012, the average shall include felony adjudications for fiscal year 2007 and for each subsequent fiscal year through fiscal year 2016. Beginning July 1, 2017, the most recent felony adjudication data shall be included and the oldest fiscal year data shall be removed so that a ten-year average of

felony adjudication data will be maintained. 68514

(b) The department shall determine for each county and for 68515  
the state the number of charged bed days, for both the department 68516  
and community correctional facilities, from the previous year. 68517

(c) The department shall divide the statewide total number of 68518  
charged bed days by the statewide total number of felony 68519  
adjudications, which quotient shall then be multiplied by a factor 68520  
determined by the department. 68521

(d) The department shall calculate the county's allocation of 68522  
credits by multiplying the number of adjudications for each court 68523  
by the result determined pursuant to division (C)(1)(c) of this 68524  
section. 68525

(2) The department shall subtract from the allocation 68526  
determined pursuant to division (C)(1) of this section a credit 68527  
for every chargeable bed day a youth stays in a department 68528  
institution and two-thirds of credit for every chargeable bed day 68529  
a youth stays in a community correctional facility, except for 68530  
public safety beds. At the end of the year, the department shall 68531  
divide the amount of remaining credits of that county's allocation 68532  
by the total number of remaining credits to all counties, to 68533  
determine the county's percentage, which shall then be applied to 68534  
the total county allocation to determine the county's payment for 68535  
the fiscal year. 68536

(3) The department shall pay counties three times during the 68537  
fiscal year to allow for credit reporting and audit adjustments, 68538  
and modifications to the appropriated line item for the care and 68539  
custody of felony delinquents, as described in this section. The 68540  
department shall pay fifty per cent of the payment by the 68541  
fifteenth of July of each fiscal year, twenty-five per cent by the 68542  
fifteenth of January of that fiscal year, and twenty-five per cent 68543  
of the payment by the fifteenth of June of that fiscal year. 68544

~~(D) In fiscal year 2004, the payment of county juvenile programs shall be based on the following procedure:~~ 68545  
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~~(1) The department shall divide the funding earned by each court in fiscal year 2003 by the aggregate funding of all courts, resulting in a percentage.~~ 68547  
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~~(2) The department shall apply the percentage determined under division (D)(1) of this section to the total county juvenile program allocation for fiscal year 2004 to determine each court's total payment.~~ 68550  
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~~(3) The department shall make payments in accordance with the schedule established in division (C)(3) of this section.~~ 68554  
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**Sec. 5139.43.** (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section. 68556  
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(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not 68561  
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be commingled with any other county funds except state subsidy 68576  
funds granted to the county pursuant to section 5139.34 of the 68577  
Revised Code; shall not be used for any capital construction 68578  
projects; upon an order of the juvenile court and subject to 68579  
appropriation by the board of county commissioners, shall be 68580  
disbursed to the juvenile court for use in accordance with the 68581  
applicable provisions of division (B)(2) of this section; shall 68582  
not revert to the county general fund at the end of any fiscal 68583  
year; and shall carry over in the felony delinquent care and 68584  
custody fund from the end of any fiscal year to the next fiscal 68585  
year. The maximum balance carry-over at the end of each respective 68586  
fiscal year in the felony delinquent care and custody fund in any 68587  
county from funds allocated to the county pursuant to sections 68588  
5139.34 and 5139.41 of the Revised Code in the previous fiscal 68589  
year shall not exceed an amount to be calculated as provided in 68590  
the formula set forth in this division, unless that county has 68591  
applied for and been granted an exemption by the director of youth 68592  
services. Beginning June 30, 2008, the maximum balance carry-over 68593  
at the end of each respective fiscal year shall be determined by 68594  
the following formula: for fiscal year 2008, the maximum balance 68595  
carry-over shall be one hundred per cent of the allocation for 68596  
fiscal year 2007, to be applied in determining the fiscal year 68597  
2009 allocation; for fiscal year 2009, it shall be fifty per cent 68598  
of the allocation for fiscal year 2008, to be applied in 68599  
determining the fiscal year 2010 allocation; for fiscal year 2010, 68600  
it shall be twenty-five per cent of the allocation for fiscal year 68601  
2009, to be applied in determining the fiscal year 2011 68602  
allocation; and for each fiscal year subsequent to fiscal year 68603  
2010, it shall be twenty-five per cent of the allocation for the 68604  
immediately preceding fiscal year, to be applied in determining 68605  
the allocation for the next immediate fiscal year. The department 68606  
shall withhold from future payments to a county an amount equal to 68607  
any moneys in the felony delinquent care and custody fund of the 68608

county that exceed the total maximum balance carry-over that 68609  
applies for that county for the fiscal year in which the payments 68610  
are being made and shall reallocate the withheld amount. The 68611  
department shall adopt rules for the withholding and reallocation 68612  
of moneys disbursed under sections 5139.34 and 5139.41 of the 68613  
Revised Code and for the criteria and process for a county to 68614  
obtain an exemption from the withholding requirement. The moneys 68615  
disbursed to the juvenile court pursuant to division (B) of 68616  
section 5139.41 of the Revised Code and deposited pursuant to this 68617  
division in the felony delinquent care and custody fund shall be 68618  
in addition to, and shall not be used to reduce, any usual annual 68619  
increase in county funding that the juvenile court is eligible to 68620  
receive or the current level of county funding of the juvenile 68621  
court and of any programs or services for delinquent children, 68622  
unruly children, or juvenile traffic offenders. 68623

(2)(a) A county and the juvenile court that serves the county 68624  
shall use the moneys in its felony delinquent care and custody 68625  
fund in accordance with rules that the department of youth 68626  
services adopts pursuant to division (D) of section 5139.04 of the 68627  
Revised Code and as follows: 68628

(i) The moneys in the fund that represent state subsidy funds 68629  
granted to the county pursuant to section 5139.34 of the Revised 68630  
Code shall be used to aid in the support of prevention, early 68631  
intervention, diversion, treatment, and rehabilitation programs 68632  
that are provided for alleged or adjudicated unruly children or 68633  
delinquent children or for children who are at risk of becoming 68634  
unruly children or delinquent children. The county shall not use 68635  
for capital improvements more than fifteen per cent of the moneys 68636  
in the fund that represent the applicable annual grant of those 68637  
state subsidy funds. 68638

(ii) The moneys in the fund that were disbursed to the 68639  
juvenile court pursuant to division (B) of section 5139.41 of the 68640

Revised Code and deposited pursuant to division (B)(1) of this 68641  
section in the fund shall be used to provide programs and services 68642  
for the training, treatment, or rehabilitation of felony 68643  
delinquents that are alternatives to their commitment to the 68644  
department, including, but not limited to, community residential 68645  
programs, day treatment centers, services within the home, and 68646  
electronic monitoring, and shall be used in connection with 68647  
training, treatment, rehabilitation, early intervention, or other 68648  
programs or services for any delinquent child, unruly child, or 68649  
juvenile traffic offender who is under the jurisdiction of the 68650  
juvenile court. 68651

The fund also may be used for prevention, early intervention, 68652  
diversion, treatment, and rehabilitation programs that are 68653  
provided for alleged or adjudicated unruly children, delinquent 68654  
children, or juvenile traffic offenders or for children who are at 68655  
risk of becoming unruly children, delinquent children, or juvenile 68656  
traffic offenders. Consistent with division (B)(1) of this 68657  
section, a county and the juvenile court of a county shall not use 68658  
any of those moneys for capital construction projects. 68659

(iii) Moneys in the fund shall not be used to support 68660  
programs or services that do not comply with federal juvenile 68661  
justice and delinquency prevention core requirements or to support 68662  
programs or services that research has shown to be ineffective. 68663  
~~Moneys in the fund shall be prioritized to research-supported~~ 68664  
Research-supported, outcome-based programs and services, to the 68665  
extent they are available, shall be encouraged. 68666

(iv) The county and the juvenile court that serves the county 68667  
may use moneys in the fund to provide out-of-home placement of 68668  
children only in detention centers, community rehabilitation 68669  
centers, or community corrections facilities approved by the 68670  
department pursuant to standards adopted by the department, 68671  
licensed by an authorized state agency, or accredited by the 68672

American correctional association or another national organization 68673  
recognized by the department. 68674

(b) Each juvenile court shall comply with division (B)(3)(d) 68675  
of this section as implemented by the department. If a juvenile 68676  
court fails to comply with division (B)(3)(d) of this section, the 68677  
department shall not be required to make any disbursements in 68678  
accordance with division (C) ~~or (D)~~ of section 5139.41 or division 68679  
(C)(2) of section 5139.34 of the Revised Code. 68680

(3) In accordance with rules adopted by the department 68681  
pursuant to division (D) of section 5139.04 of the Revised Code, 68682  
each juvenile court and the county served by that juvenile court 68683  
shall do all of the following that apply: 68684

(a) The juvenile court shall prepare an annual grant 68685  
agreement and application for funding that satisfies the 68686  
requirements of this section and section 5139.34 of the Revised 68687  
Code and that pertains to the use, upon an order of the juvenile 68688  
court and subject to appropriation by the board of county 68689  
commissioners, of the moneys in its felony delinquent care and 68690  
custody fund for specified programs, care, and services as 68691  
described in division (B)(2)(a) of this section, shall submit that 68692  
agreement and application to the county family and children first 68693  
council, the regional family and children first council, or the 68694  
local intersystem services to children cluster as described in 68695  
sections 121.37 and 121.38 of the Revised Code, whichever is 68696  
applicable, and shall file that agreement and application with the 68697  
department for its approval. The annual grant agreement and 68698  
application for funding shall include a method of ensuring equal 68699  
access for minority youth to the programs, care, and services 68700  
specified in it. 68701

The department may approve an annual grant agreement and 68702  
application for funding only if the juvenile court involved has 68703  
complied with the preparation, submission, and filing requirements 68704

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 shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division

(B)(3)(c) of this section. If the juvenile court fails to prepare 68737  
and submit those monthly statistical reports within one hundred 68738  
eighty days of the date the department establishes for their 68739  
submission, the department shall not disburse any payment of state 68740  
subsidy funds to which the county otherwise is entitled pursuant 68741  
to section 5139.34 of the Revised Code and shall not disburse 68742  
pursuant to division (B) of section 5139.41 of the Revised Code 68743  
the applicable allocation, and the state subsidy funds and the 68744  
remainder of the applicable allocation shall revert to the 68745  
department. If a juvenile court states in a monthly statistical 68746  
report that the juvenile court adjudicated within a state fiscal 68747  
year five hundred or more children to be delinquent children for 68748  
committing acts that would be felonies if committed by adults and 68749  
if the department determines that the data in the report may be 68750  
inaccurate, the juvenile court shall have an independent auditor 68751  
or other qualified entity certify the accuracy of the data on a 68752  
date determined by the department. 68753

(d) If the department requires the juvenile court and the 68754  
county to participate in a fiscal monitoring program or another 68755  
monitoring program that is conducted by the department to ensure 68756  
compliance by the juvenile court and the county with division (B) 68757  
of this section, the juvenile court and the county shall 68758  
participate in the program and fully comply with any guidelines 68759  
for the performance of audits adopted by the department pursuant 68760  
to that program and all requests made by the department pursuant 68761  
to that program for information necessary to reconcile fiscal 68762  
accounting. If an audit that is performed pursuant to a fiscal 68763  
monitoring program or another monitoring program described in this 68764  
division determines that the juvenile court or the county used 68765  
moneys in the county's felony delinquent care and custody fund for 68766  
expenses that are not authorized under division (B) of this 68767  
section, within forty-five days after the department notifies the 68768  
county of the unauthorized expenditures, the county either shall 68769

repay the amount of the unauthorized expenditures from the county 68770  
general revenue fund to the state's general revenue fund or shall 68771  
file a written appeal with the department. If an appeal is timely 68772  
filed, the director of the department shall render a decision on 68773  
the appeal and shall notify the appellant county or its juvenile 68774  
court of that decision within forty-five days after the date that 68775  
the appeal is filed. If the director denies an appeal, the 68776  
county's fiscal agent shall repay the amount of the unauthorized 68777  
expenditures from the county general revenue fund to the state's 68778  
general revenue fund within thirty days after receiving the 68779  
director's notification of the appeal decision. 68780

(C) The determination of which county a reduction of the care 68781  
and custody allocation will be charged against for a particular 68782  
youth shall be made as outlined below for all youths who do not 68783  
qualify as public safety beds. The determination of which county a 68784  
reduction of the care and custody allocation will be charged 68785  
against shall be made as follows until each youth is released: 68786

(1) In the event of a commitment, the reduction shall be 68787  
charged against the committing county. 68788

(2) In the event of a recommitment, the reduction shall be 68789  
charged against the original committing county until the 68790  
expiration of the minimum period of institutionalization under the 68791  
original order of commitment or until the date on which the youth 68792  
is admitted to the department of youth services pursuant to the 68793  
order of recommitment, whichever is later. Reductions of the 68794  
allocation shall be charged against the county that recommitted 68795  
the youth after the minimum expiration date of the original 68796  
commitment. 68797

(3) In the event of a revocation of a release on parole, the 68798  
reduction shall be charged against the county that revokes the 68799  
youth's parole. 68800

(D) A juvenile court is not precluded by its allocation 68801  
amount for the care and custody of felony delinquents from 68802  
committing a felony delinquent to the department of youth services 68803  
for care and custody in an institution or a community corrections 68804  
facility when the juvenile court determines that the commitment is 68805  
appropriate. 68806

Sec. 5139.511. Before a youth is released from a secure 68807  
facility under the control of the department of youth services, 68808  
the department of youth services shall attempt to verify the 68809  
youth's identification and social security number. If the 68810  
department is able to verify the youth's identity with a verified 68811  
birth certificate and social security number, the department shall 68812  
issue an identification card that the youth may present to the 68813  
registrar or deputy registrar of motor vehicles. If the department 68814  
is not able to verify the youth's identity with both a verified 68815  
birth certificate and social security number, the youth shall not 68816  
receive an identification card under this section. 68817

**Sec. 5149.311.** (A) The department of rehabilitation and 68818  
correction shall establish and administer the probation 68819  
improvement grant and the probation incentive grant for ~~court of~~ 68820  
~~common pleas~~ probation departments that supervise ~~felony~~ offenders 68821  
sentenced by courts of common pleas or municipal courts. 68822

(B)(1) The probation improvement grant shall provide funding 68823  
to ~~court of common pleas~~ probation departments to adopt policies 68824  
and practices based on the latest research on how to reduce the 68825  
number of ~~felony~~ offenders on probation supervision who violate 68826  
the conditions of their supervision. 68827

(2) The department shall adopt rules for the distribution of 68828  
the probation improvement grant, including the formula for the 68829  
allocation of the subsidy based on the number of ~~felony~~ offenders 68830

placed on probation annually in each jurisdiction. 68831

(C)(1) The probation incentive grant shall provide a 68832  
performance-based level of funding to court ~~of common pleas~~ 68833  
probation departments that are successful in reducing the number 68834  
of felony offenders on probation supervision whose terms of 68835  
supervision are revoked. 68836

(2) The department shall calculate annually any cost savings 68837  
realized by the state from a reduction in the percentage of people 68838  
who are incarcerated because their terms of supervised probation 68839  
were revoked. The cost savings estimate shall be calculated for 68840  
each ~~county~~ jurisdiction served by the probation department 68841  
eligible for a grant under this section and be based on the 68842  
difference from fiscal year 2010 and the fiscal year under 68843  
examination. 68844

(3) The department shall adopt rules that specify the subsidy 68845  
amount to be appropriated to court ~~of common pleas~~ probation 68846  
departments that successfully reduce the percentage of people on 68847  
probation who are incarcerated because their terms of supervision 68848  
are revoked. 68849

(D) The following stipulations apply to both the probation 68850  
improvement grant and the probation incentive grant: 68851

(1) In order to be eligible for the probation improvement 68852  
grant and the probation incentive grant, courts of common pleas 68853  
must satisfy all requirements under sections 2301.27 and 2301.30 68854  
of the Revised Code ~~and, except.~~ Except for sentencing decisions 68855  
made by a court when use of the risk assessment tool is 68856  
discretionary, in order to be eligible for the probation 68857  
improvement grant and the probation incentive grant, a court must 68858  
utilize the single validated risk assessment tool selected by the 68859  
department of rehabilitation and correction under section 5120.114 68860  
of the Revised Code. 68861

(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.

**Sec. 5155.14.** At the request of the superintendent or administrator of the county home, the board of county commissioners or operator shall set apart from the county home fund, a reserve fund not to exceed ~~four hundred~~ five thousand dollars at any time, which, upon the order of the board or operator shall be paid to the superintendent or administrator and expended as needed for emergency supplies and expenses. The superintendent or administrator shall keep an accurate account of the reserve fund, in a book to be provided at the expense of the county for that purpose, and all expenditures from it shall be audited by the board or operator. The county home fund shall be reimbursed by the superintendent or administrator, in full, for any items expended by the superintendent or administrator from the reserve fund, which items are not allowed by the board or operator. When, and as often as such amount is entirely disbursed, on the order of the board or operator, the county auditor shall

pay to the superintendent or administrator the amount so 68893  
appropriated. 68894

~~Sec. 5501.04. The following divisions are hereby established 68895  
in the department of transportation: 68896~~

~~(A) The division of business services; 68897~~

~~(B) The division of engineering policy; 68898~~

~~(C) The division of finance; 68899~~

~~(D) The division of human resources; 68900~~

~~(E) The division of information technology; 68901~~

~~(F) The division of multi-modal planning and programs; 68902~~

~~(G) The division of project management; 68903~~

~~(H) The division of equal opportunity. 68904~~

~~The Pursuant to section 5501.02 of the Revised Code, the 68905  
director of transportation shall distribute the duties, powers, 68906  
and functions of the department among the divisions of the 68907  
department. 68908~~

~~Each division shall be headed by a deputy director, whose 68909  
title shall be designated by the director, and shall include those 68910  
other officers and employees as may be necessary to carry out the 68911  
work of the division. ~~The director shall appoint the~~ Each deputy 68912  
director of each division, ~~who~~ shall be in the unclassified civil 68913  
service of the state and shall serve at the pleasure of the 68914  
director. ~~The director shall supervise the work of each division~~ 68915  
~~and~~ shall be responsible for the determination of general policies 68916  
in the performance of the duties, powers, and functions of the 68917  
department and of each division. The director shall have complete 68918  
executive charge of the department, shall be responsible for the 68919  
organization, direction, and supervision of the work of the 68920  
department and the performance of the duties, powers, and 68921~~

functions assigned to each division, and may establish necessary 68922  
administrative units therein. ~~The~~ Each deputy director of each 68923  
division, with the approval of the director and subject to Chapter 68924  
124. of the Revised Code, shall appoint the necessary employees of 68925  
the division and may remove such employees for cause. 68926

~~The division of equal opportunity shall ensure that minority 68927  
groups and all groups protected by state and federal civil rights 68928  
laws are afforded equal opportunity to be recruited, trained, and 68929  
work in the employment of or on projects of the department of 68930  
transportation, and to participate in contracts awarded by the 68931  
department. The director of transportation each year shall report 68932  
to the governor and the general assembly on the division's 68933  
activities and accomplishments. 68934~~

**Sec. 5501.07.** In addition to those duties, powers, and 68935  
functions the director of transportation assigns to it, the office 68936  
of ~~public transportation of the division of multi modal planning 68937  
and programs~~ transit: 68938

(A) May issue grants from any public transportation grant 68939  
appropriation to county transit boards, regional transit 68940  
authorities, regional transit commissions, counties, municipal 68941  
corporations, and private nonprofit organizations that operate or 68942  
will operate a public transportation system. 68943

The director shall establish criteria for the distribution of 68944  
such grants. These criteria may include and the director may 68945  
consider each of the following: 68946

(1) The degree to which comprehensive regional transportation 68947  
planning goals may be attained through a program for which a grant 68948  
will be used; 68949

(2) The amount of local financial or other support of public 68950  
transportation operations and facilities affected by the program; 68951

|   |  |
|---|--|
| (3) The levels of existing service and fare;  | 68952  |
| (4) The degree to which the proposed plan demonstrates approaches of potential value to other local transit boards, authorities, commissions, counties, municipal corporations, and private nonprofit organizations operating public transportation systems;  | 68953<br>68954<br>68955<br>68956<br>68957                            |
| (5) The degree to which the grant applicant will use state and local funds to match a federal grant;  | 68958<br>68959   |
| (6) Such other factors as the director determines.  | 68960  |
| Any criteria established by the director for the distribution of such grants shall be consistent with the requirements of the United States department of transportation, or any administration in the department, including, but not limited to, the federal transit administration. The director may designate in the criteria certain dates after which applications for specified portions of the appropriations made for this purpose will not be accepted.                                    | 68961<br>68962<br>68963<br>68964<br>68965<br>68966<br>68967          |
| (B) May issue grants from any elderly and handicapped transit fare assistance grant appropriation to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems for the purpose of reducing the transit or paratransit fares of elderly or handicapped persons. The director shall establish criteria for the distribution of such grants. | 68968<br>68969<br>68970<br>68971<br>68972<br>68973<br>68974<br>68975 |
| (C) May administer provisions of federal public transportation acts or programs applicable within the state, pursuant to an agreement entered into by the director with an appropriate official of the federal agency responsible for implementation of the federal acts or programs. The federal acts or programs shall include, but are not limited to, programs authorized under the "Act of July 5, 1994," 108 Stat. 785, 49  | 68976<br>68977<br>68978<br>68979<br>68980<br>68981<br>68982          |

U.S.C.A. 5301, as amended. 68983

(D) Shall furnish, upon request and within the limits of 68984  
appropriated funds, guidance in technical or policy matters to a 68985  
county transit board, regional transit authority, regional transit 68986  
commission, county, municipal corporation, or private nonprofit 68987  
organization that operates or proposes to operate a public 68988  
transportation system, and provide assistance and liaison in the 68989  
preparation and submission of applications for federal and state 68990  
funds; 68991

(E) May apply for and accept grants or loans from any federal 68992  
agency for the purpose of providing for the development or 68993  
improvement of public transportation facilities or for the 68994  
coordination of any activities related to the development or 68995  
improvement of such facilities, and may provide any consideration 68996  
from any public transportation grant appropriation and enter into 68997  
any contracts that may be required in order to obtain such grants 68998  
or loans from a federal agency. 68999

**Sec. 5502.01.** (A) The department of public safety shall 69000  
administer and enforce the laws relating to the registration, 69001  
licensing, sale, and operation of motor vehicles and the laws 69002  
pertaining to the licensing of drivers of motor vehicles. 69003

The department shall compile, analyze, and publish statistics 69004  
relative to motor vehicle accidents and the causes of them, 69005  
prepare and conduct educational programs for the purpose of 69006  
promoting safety in the operation of motor vehicles on the 69007  
highways, and conduct research and studies for the purpose of 69008  
promoting safety on the highways of this state. 69009

(B) The department shall administer the laws and rules 69010  
relative to trauma and emergency medical services specified in 69011  
Chapter 4765. of the Revised Code and any laws and rules relative 69012  
to commercial medical transportation services as may be specified 69013

in Chapter 4766. of the Revised Code. 69014

(C) The department shall administer and enforce the laws 69015  
contained in Chapters 4301. and 4303. of the Revised Code and 69016  
enforce the rules and orders of the liquor control commission 69017  
pertaining to retail liquor permit holders. 69018

(D) The department shall administer the laws governing the 69019  
state emergency management agency and shall enforce all additional 69020  
duties and responsibilities as prescribed in the Revised Code 69021  
related to emergency management services. 69022

(E) The department shall conduct investigations pursuant to 69023  
Chapter 5101. of the Revised Code in support of the duty of the 69024  
department of job and family services to administer the 69025  
supplemental nutrition assistance program throughout this state. 69026  
The department of public safety shall conduct investigations 69027  
necessary to protect the state's property rights and interests in 69028  
the supplemental nutrition assistance program. 69029

(F) The department of public safety shall enforce compliance 69030  
with orders and rules of the public utilities commission and 69031  
applicable laws in accordance with Chapters ~~4919.~~ 4905., 4921., 69032  
and 4923. of the Revised Code regarding commercial motor vehicle 69033  
transportation safety, economic, and hazardous materials 69034  
requirements. 69035

(G) Notwithstanding Chapter 4117. of the Revised Code, the 69036  
department of public safety may establish requirements for its 69037  
enforcement personnel, including its enforcement agents described 69038  
in section 5502.14 of the Revised Code, that include standards of 69039  
conduct, work rules and procedures, and criteria for eligibility 69040  
as law enforcement personnel. 69041

(H) The department shall administer, maintain, and operate 69042  
the Ohio criminal justice network. The Ohio criminal justice 69043  
network shall be a computer network that supports state and local 69044

criminal justice activities. The network shall be an electronic 69045  
repository for various data, which may include arrest warrants, 69046  
notices of persons wanted by law enforcement agencies, criminal 69047  
records, prison inmate records, stolen vehicle records, vehicle 69048  
operator's licenses, and vehicle registrations and titles. 69049

(I) The department shall coordinate all homeland security 69050  
activities of all state agencies and shall be a liaison between 69051  
state agencies and local entities for those activities and related 69052  
purposes. 69053

(J) Beginning July 1, 2004, the department shall administer 69054  
and enforce the laws relative to private investigators and 69055  
security service providers specified in Chapter 4749. of the 69056  
Revised Code. 69057

(K) The department shall administer criminal justice services 69058  
in accordance with sections 5502.61 to 5502.66 of the Revised 69059  
Code. 69060

**Sec. 5502.011.** (A) As used in this section, "department of 69061  
public safety" and "department" include all divisions within the 69062  
department of public safety. 69063

(B) The director ~~of the department~~ of public safety is the 69064  
chief executive and administrative officer of the department. The 69065  
director may establish policies governing the department, the 69066  
performance of its employees and officers, the conduct of its 69067  
business, and the custody, use, and preservation of departmental 69068  
records, papers, books, documents, and property. The director also 69069  
may authorize and approve investigations to be conducted by any of 69070  
the department's divisions. Whenever the Revised Code imposes a 69071  
duty upon or requires an action of the department, the director 69072  
may perform the action or duty in the name of the department or 69073  
direct such performance to be performed by the director's 69074  
designee. 69075

(C) In addition to any other duties enumerated in the Revised Code, the director or the director's designee shall do all of the following:

(1) Administer and direct the performance of the duties of the department;

(2) Pursuant to Chapter 119. of the Revised Code, approve, adopt, and prescribe such forms and rules as are necessary to carry out the duties of the department;

(3) On behalf of the department and in addition to any authority the Revised Code otherwise grants to the department, have the authority and responsibility for approving and entering into contracts, agreements, and other business arrangements;

(4) Make appointments for the department as needed to comply with requirements of the Revised Code;

(5) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations;

(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;

(7) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources;

(8) Do all other acts necessary or desirable to carry out this chapter.

(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:

|   |  |
|---|--|
| (a) A check, draft, or money order that is returned or dishonored;  | 69106<br>69107   |
| (b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason;   | 69108<br>69109   |
| (c) Any financial transaction device that is returned or dishonored for any reason.   | 69110<br>69111   |
| (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.  | 69112<br>69113<br>69114  |
| (3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.   | 69115<br>69116   |
| (E) The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts. The advisory council shall include, but not be limited to, state and local government officials who have homeland security or emergency management responsibilities and who represent first responders. The director shall appoint the members of the council, who shall serve without compensation.  | 69117<br>69118<br>69119<br>69120<br>69121<br>69122<br>69123<br>69124                   |
| <del>(F) The director of public safety shall adopt rules in accordance with Chapter 119. of the Revised Code as required by section 2909.28 of the Revised Code and division (A)(1) of section 2909.32 of the Revised Code. The director shall adopt rules as required by division (D) of section 2909.32 of the Revised Code, division (E) of section 2909.33 of the Revised Code, and division (D) of section 2909.34 of the Revised Code. The director may adopt rules pursuant to division (A)(2) of section 2909.32 of the Revised Code, division (A)(2) of section 2909.33 of the Revised Code, and division (A)(2) of section 2909.34 of the Revised Code.</del> | 69125<br>69126<br>69127<br>69128<br>69129<br>69130<br>69131<br>69132<br>69133<br>69134 |
| <b>Sec. <del>5503.21</del> 5502.05.</b> There is hereby created in the  | 69135  |

department of public safety, ~~division of state highway patrol~~, a 69136  
driver's license examination section ~~to be administered by the~~ 69137  
~~superintendent of the state highway patrol.~~ 69138

The ~~superintendent~~, with the approval of the director of 69139  
public safety, may appoint necessary driver's license examiners 69140  
and clerical personnel necessary to carry out the duties assigned 69141  
under this section. The examiners shall be citizens of the United 69142  
States and residents of the state and shall have such additional 69143  
qualifications as the ~~superintendent~~, with the approval of the 69144  
director, prescribes. 69145

The salaries and classifications of examiners and personnel 69146  
shall be fixed in accordance with section 124.15 or 124.152 of the 69147  
Revised Code. 69148

**Sec. ~~5503.22~~ 5502.06.** Driver's license examiners assigned to 69149  
the driver's license examination section shall conduct all 69150  
examinations for driver's licenses as required by sections 4507.01 69151  
to 4507.36 of the Revised Code, subject to the ~~regulations~~ rules 69152  
issued by the registrar of motor vehicles. 69153

**Sec. ~~5503.23~~ 5502.07.** The ~~superintendent of the state highway~~ 69154  
~~patrol~~, with the approval of the director of public safety, may 69155  
conduct training schools for prospective driver's license 69156  
examiners. ~~The superintendent~~ and may establish rules governing 69157  
the qualifications for admission to such schools and provide for 69158  
competitive examinations to determine the fitness of such students 69159  
for prospective examiners, not inconsistent with the rules of the 69160  
director of administrative services. 69161

**Sec. 5503.02.** (A) The state highway patrol shall enforce the 69162  
laws of the state relating to the titling, registration, and 69163  
licensing of motor vehicles; enforce on all roads and highways, 69164  
notwithstanding section 4513.39 of the Revised Code, the laws 69165

relating to the operation and use of vehicles on the highways; 69166  
enforce and prevent the violation of the laws relating to the 69167  
size, weight, and speed of commercial motor vehicles and all laws 69168  
designed for the protection of the highway pavements and 69169  
structures on the highways; investigate and enforce rules and laws 69170  
of the public utilities commission governing the transportation of 69171  
persons and property by motor carriers and report violations of 69172  
such rules and laws to the commission; enforce against any motor 69173  
~~transportation company~~ carrier as defined in section ~~4921.02~~ 69174  
4923.01 of the Revised Code, ~~any contract carrier by motor vehicle~~ 69175  
~~as defined in section 4923.02 of the Revised Code, any private~~ 69176  
~~motor carrier as defined in section 4923.20 of the Revised Code,~~ 69177  
~~and any motor carrier as defined in section 4919.75 of the Revised~~ 69178  
~~Code~~ those rules and laws that, if violated, may result in a 69179  
forfeiture as provided in section ~~4905.83, 4919.99, 4921.99, or~~ 69180  
4923.99 of the Revised Code; investigate and report violations of 69181  
all laws relating to the collection of excise taxes on motor 69182  
vehicle fuels; and regulate the movement of traffic on the roads 69183  
and highways of the state, notwithstanding section 4513.39 of the 69184  
Revised Code. 69185

The patrol, whenever possible, shall determine the identity 69186  
of the persons who are causing or who are responsible for the 69187  
breaking, damaging, or destruction of any improved surfaced 69188  
roadway, structure, sign, marker, guardrail, or other appurtenance 69189  
constructed or maintained by the department of transportation and 69190  
shall arrest the persons who are responsible for the breaking, 69191  
damaging, or destruction and bring them before the proper 69192  
officials for prosecution. 69193

State highway patrol troopers shall investigate and report 69194  
all motor vehicle accidents on all roads and highways outside of 69195  
municipal corporations. The superintendent of the patrol or any 69196  
state highway patrol trooper may arrest, without a warrant, any 69197

person, who is the driver of or a passenger in any vehicle 69198  
operated or standing on a state highway, whom the superintendent 69199  
or trooper has reasonable cause to believe is guilty of a felony, 69200  
under the same circumstances and with the same power that any 69201  
peace officer may make such an arrest. 69202

The superintendent or any state highway patrol trooper may 69203  
enforce the criminal laws on all state properties and state 69204  
institutions, owned or leased by the state, and, when so ordered 69205  
by the governor in the event of riot, civil disorder, or 69206  
insurrection, may, pursuant to sections 2935.03 to 2935.05 of the 69207  
Revised Code, arrest offenders against the criminal laws wherever 69208  
they may be found within the state if the violations occurred 69209  
upon, or resulted in injury to person or property on, state 69210  
properties or state institutions, or under the conditions 69211  
described in division (B) of this section. This authority of the 69212  
superintendent and any state highway patrol trooper to enforce the 69213  
criminal laws shall extend to the Lake Erie Correctional 69214  
Institution, to the same extent as if that prison were owned by 69215  
this state. 69216

(B) In the event of riot, civil disorder, or insurrection, or 69217  
the reasonable threat of riot, civil disorder, or insurrection, 69218  
and upon request, as provided in this section, of the sheriff of a 69219  
county or the mayor or other chief executive of a municipal 69220  
corporation, the governor may order the state highway patrol to 69221  
enforce the criminal laws within the area threatened by riot, 69222  
civil disorder, or insurrection, as designated by the governor, 69223  
upon finding that law enforcement agencies within the counties 69224  
involved will not be reasonably capable of controlling the riot, 69225  
civil disorder, or insurrection and that additional assistance is 69226  
necessary. In cities in which the sheriff is under contract to 69227  
provide exclusive police services pursuant to section 311.29 of 69228  
the Revised Code, in villages, and in the unincorporated areas of 69229

the county, the sheriff has exclusive authority to request the use 69230  
of the patrol. In cities in which the sheriff does not exclusively 69231  
provide police services, the mayor, or other chief executive 69232  
performing the duties of mayor, has exclusive authority to request 69233  
the use of the patrol. 69234

The superintendent or any state highway patrol trooper may 69235  
enforce the criminal laws within the area designated by the 69236  
governor during the emergency arising out of the riot, civil 69237  
disorder, or insurrection until released by the governor upon 69238  
consultation with the requesting authority. State highway patrol 69239  
troopers shall never be used as peace officers in connection with 69240  
any strike or labor dispute. 69241

When a request for the use of the patrol is made pursuant to 69242  
this division, the requesting authority shall notify the law 69243  
enforcement authorities in contiguous communities and the sheriff 69244  
of each county within which the threatened area, or any part of 69245  
the threatened area, lies of the request, but the failure to 69246  
notify the authorities or a sheriff shall not affect the validity 69247  
of the request. 69248

(C) Any person who is arrested by the superintendent or a 69249  
state highway patrol trooper shall be taken before any court or 69250  
magistrate having jurisdiction of the offense with which the 69251  
person is charged. Any person who is arrested or apprehended 69252  
within the limits of a municipal corporation shall be brought 69253  
before the municipal court or other tribunal of the municipal 69254  
corporation. 69255

(D)(1) State highway patrol troopers have the same right and 69256  
power of search and seizure as other peace officers. 69257

No state official shall command, order, or direct any state 69258  
highway patrol trooper to perform any duty or service that is not 69259  
authorized by law. The powers and duties conferred on the patrol 69260

are supplementary to, and in no way a limitation on, the powers 69261  
and duties of sheriffs or other peace officers of the state. 69262

(2)(a) A state highway patrol trooper, pursuant to the policy 69263  
established by the superintendent of the state highway patrol 69264  
under division (D)(2)(b) of this section, may render emergency 69265  
assistance to any other peace officer who has arrest authority 69266  
under section 2935.03 of the Revised Code, if both of the 69267  
following apply: 69268

(i) There is a threat of imminent physical danger to the 69269  
peace officer, a threat of physical harm to another person, or any 69270  
other serious emergency situation; 69271

(ii) Either the peace officer requests emergency assistance, 69272  
or it appears that the peace officer is unable to request 69273  
emergency assistance and the circumstances observed by the state 69274  
highway patrol trooper reasonably indicate that emergency 69275  
assistance is appropriate, or the peace officer requests emergency 69276  
assistance and in the request the peace officer specifies a 69277  
particular location and the state highway patrol trooper arrives 69278  
at that location prior to the time that the peace officer arrives 69279  
at that location and the circumstances observed by the state 69280  
highway patrol trooper reasonably indicate that emergency 69281  
assistance is appropriate. 69282

(b) The superintendent of the state highway patrol shall 69283  
establish, within sixty days of August 8, 1991, a policy that sets 69284  
forth the manner and procedures by which a state highway patrol 69285  
trooper may render emergency assistance to any other peace officer 69286  
under division (D)(2)(a) of this section. The policy shall include 69287  
a provision that a state highway patrol trooper never be used as a 69288  
peace officer in connection with any strike or labor dispute. 69289

(3)(a) A state highway patrol trooper who renders emergency 69290  
assistance to any other peace officer under the policy established 69291

by the superintendent pursuant to division (D)(2)(b) of this 69292  
section shall be considered to be performing regular employment 69293  
for the purposes of compensation, pension, indemnity fund rights, 69294  
workers' compensation, and other rights or benefits to which the 69295  
trooper may be entitled as incident to regular employment. 69296

(b) A state highway patrol trooper who renders emergency 69297  
assistance to any other peace officer under the policy established 69298  
by the superintendent pursuant to division (D)(2)(b) of this 69299  
section retains personal immunity from liability as specified in 69300  
section 9.86 of the Revised Code. 69301

(c) A state highway patrol trooper who renders emergency 69302  
assistance under the policy established by the superintendent 69303  
pursuant to division (D)(2)(b) of this section has the same 69304  
authority as the peace officer for or with whom the state highway 69305  
patrol trooper is providing emergency assistance. 69306

(E)(1) Subject to the availability of funds specifically 69307  
appropriated by the general assembly for security detail purposes, 69308  
the state highway patrol shall provide security as follows: 69309

(a) For the governor; 69310

(b) At the direction of the governor, for other officials of 69311  
the state government of this state; officials of the state 69312  
governments of other states who are visiting this state; officials 69313  
of the United States government who are visiting this state; 69314  
officials of the governments of foreign countries or their 69315  
political subdivisions who are visiting this state; or other 69316  
officials or dignitaries who are visiting this state, including, 69317  
but not limited to, members of trade missions; 69318

(c) For the capitol square, as defined in section 105.41 of 69319  
the Revised Code; 69320

(d) For other state property. 69321

(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.

The superintendent, any state highway patrol trooper, and any special police officer designated under section 5503.09 of the Revised Code, when providing security pursuant to division (E)(1)(c) of this section, shall enforce any rules governing capitol square adopted by the capitol square review and advisory board.

(F) The governor may order the state highway patrol to undertake major criminal investigations that involve state property interests. If an investigation undertaken pursuant to this division results in either the issuance of a no bill or the filing of an indictment, the superintendent shall file a complete and accurate report of the investigation with the president of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives within fifteen days after the issuance of the no bill or the filing of an indictment. If the investigation does not have as its result any prosecutorial action, the superintendent shall, upon reporting this fact to the governor, file a complete and accurate report of the investigation with the president of the senate, the speaker of the house of representatives, the minority

leader of the senate, and the minority leader of the house of 69354  
representatives. 69355

(G) The superintendent may purchase or lease real property 69356  
and buildings needed by the patrol, negotiate the sale of real 69357  
property owned by the patrol, rent or lease real property owned or 69358  
leased by the patrol, and make or cause to be made repairs to all 69359  
property owned or under the control of the patrol. Any instrument 69360  
by which real property is acquired pursuant to this division shall 69361  
identify the agency of the state that has the use and benefit of 69362  
the real property as specified in section 5301.012 of the Revised 69363  
Code. 69364

Sections 123.01 and 125.02 of the Revised Code do not limit 69365  
the powers granted to the superintendent by this division. 69366

**Sec. 5503.04.** Forty-five per cent of the fines collected from 69367  
or moneys arising from bail forfeited by persons apprehended or 69368  
arrested by state highway patrol troopers shall be paid into the 69369  
state treasury to be credited to the general revenue fund, five 69370  
per cent shall be paid into the state treasury to be credited to 69371  
the trauma and emergency medical services ~~grants~~ fund created by 69372  
~~division (E) of~~ section 4513.263 of the Revised Code, and fifty 69373  
per cent shall be paid into the treasury of the municipal 69374  
corporation where the case is prosecuted, if in a mayor's court. 69375  
If the prosecution is in a trial court outside a municipal 69376  
corporation, or outside the territorial jurisdiction of a 69377  
municipal court, the fifty per cent of the fines and moneys that 69378  
is not paid into the state treasury shall be paid into the 69379  
treasury of the county where the case is prosecuted. The fines and 69380  
moneys paid into a county treasury and the fines and moneys paid 69381  
into the treasury of a municipal corporation shall be deposited 69382  
one-half to the same fund and expended in the same manner as is 69383  
the revenue received from the registration of motor vehicles, and 69384

one-half to the general fund of such county or municipal corporation. 69385  
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If the prosecution is in a municipal court, forty-five per cent of the fines and moneys shall be paid into the state treasury to be credited to the general revenue fund, five per cent shall be paid into the state treasury to be credited to the trauma and emergency medical services grants fund created by division (E) of section 4513.263 of the Revised Code, ten per cent shall be paid into the county treasury to be credited to the general fund of the county, and forty per cent shall be paid into the municipal treasury to be credited to the general fund of the municipal corporation. In the Auglaize county, Clermont county, Crawford county, Hocking county, Jackson county, Lawrence county, Madison county, Miami county, Ottawa county, Portage county, and Wayne county municipal courts, that portion of money otherwise paid into the municipal treasury shall be paid into the county treasury. 69387  
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The trial court shall make remittance of the fines and moneys as prescribed in this section, and at the same time as the remittance is made of the state's portion to the state treasury, the trial court shall notify the superintendent of the state highway patrol of the case and the amount covered by the remittance. 69401  
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This section does not apply to fines for violations of division (B) of section 4513.263 of the Revised Code, or for violations of any municipal ordinance that is substantively comparable to that division, all of which shall be delivered to the treasurer of state as provided in division (E) of section 4513.263 of the Revised Code. 69407  
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**Sec. 5503.34.** There is hereby created in the department of public safety, division of state highway patrol, a motor carrier enforcement unit, to be administered by the superintendent of the 69413  
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state highway patrol. This unit shall be responsible for 69416  
enforcement of commercial motor vehicle transportation safety, 69417  
~~economic~~, and hazardous materials requirements. 69418

The superintendent, with the approval of the director of 69419  
public safety, may appoint and maintain necessary staff to carry 69420  
out the duties assigned under this section. 69421

Employees of the motor carrier enforcement unit shall 69422  
cooperate with the public utilities commission to enforce 69423  
compliance with orders and rules of the commission, applicable 69424  
laws under Chapters ~~4919~~ 4905., 4921., and 4923. of the Revised 69425  
Code, and any other applicable laws or rules. 69426

Uniformed employees of the motor carrier enforcement unit may 69427  
stop commercial motor vehicles for the exclusive purpose of 69428  
inspecting such vehicles to enforce compliance with orders and 69429  
rules of the public utilities commission as required by division 69430  
(F) of section 5502.01 of the Revised Code. 69431

**Sec. 5516.02.** No advertising device shall be erected or 69432  
maintained within six hundred sixty feet of the edge of the 69433  
right-of-way of a highway on the interstate system except the 69434  
following: 69435

(A) Directional and official signs and notices that conform 69436  
to rules adopted by the director of transportation; 69437

(B) Signs advertising the sale or lease of the property upon 69438  
which they are located; 69439

(C) Advertising devices indicating the name of the business 69440  
or profession conducted on such property or that identify the 69441  
goods produced, sold, or services rendered on such property, and 69442  
that conform to rules adopted by the director; 69443

(D) Advertising devices that are located in commercial or 69444  
industrial zones traversed by segments of the interstate system 69445

within the boundaries of a municipal corporation as such 69446  
boundaries existed on September 21, 1959, and that conform to 69447  
rules adopted by the director; 69448

(E) Advertising devices that are located on the premises of a 69449  
professional sports facility and that conform to rules adopted by 69450  
the director. For a professional sports facility that is located 69451  
on real property owned by the state, the rules of the director 69452  
shall allow an advertising device to be located within three 69453  
hundred fifty feet of the structure of the professional sports 69454  
facility and shall allow an advertising device to have a maximum 69455  
area of five thousand square feet, excluding decorative bases and 69456  
supports. 69457

**Sec. 5516.06.** No advertising device shall be erected or 69458  
maintained within six hundred sixty feet of the edge of the 69459  
right-of-way of a highway on the primary system except the 69460  
following: 69461

(A) Directional and other official signs and notices that 69462  
conform to rules adopted by the director of transportation; 69463

(B) Signs advertising the sale or lease of the property upon 69464  
which they are located; 69465

(C) Advertising devices indicating the name of the business, 69466  
activities, or profession conducted on such property or that 69467  
identify the goods produced, sold, or services rendered on such 69468  
property and that conform to rules adopted by the director; 69469

(D) Precautionary signs relating to the premises; 69470

(E) Signs, displays, or devices which locate, identify, mark, 69471  
or warn of the presence of pipe lines, utility lines, or rail 69472  
lines, and appurtenances thereof, including, but not limited to, 69473  
markers used in the maintenance, operation, observation, and 69474  
safety of said lines; 69475

(F) Advertising devices located in zoned or unzoned 69476  
industrial or commercial areas adjacent to highways on the primary 69477  
system that conform to rules adopted by the director; 69478

(G) Signs lawfully in existence on October 22, 1965, that the 69479  
director, subject to the approval of the secretary of the United 69480  
States department of transportation, has determined to be landmark 69481  
signs, including signs on farm structures or natural surfaces, 69482  
which are of historic or artistic significance; 69483

(H) Advertising devices that are located on the premises of a 69484  
professional sports facility and that conform to rules adopted by 69485  
the director. For a professional sports facility that is located 69486  
on real property owned by the state, the rules of the director 69487  
shall allow an advertising device to be located within three 69488  
hundred fifty feet of the structure of the professional sports 69489  
facility and shall allow an advertising device to have a maximum 69490  
area of five thousand square feet, excluding decorative bases and 69491  
supports. 69492

**Sec. 5701.13.** (A) As used in this section: 69493

(1) "Nursing home" means a nursing home or a home for the 69494  
aging, as those terms are defined in section 3721.01 of the 69495  
Revised Code, that is issued a license pursuant to section 3721.02 69496  
of the Revised Code. 69497

(2) "Residential care facility" means a residential care 69498  
facility, as defined in section 3721.01 of the Revised Code, that 69499  
is issued a license pursuant to section 3721.02 of the Revised 69500  
Code. 69501

(3) "~~Adult care~~ Residential facility" means ~~an adult care a~~ 69502  
~~residential~~ facility as defined in licensed under section ~~5119.70~~ 69503  
5119.22 of the Revised Code that ~~is issued a license pursuant to~~ 69504  
~~section 5119.73 of the Revised Code~~ provides accommodations, 69505

supervision, and personal care services for three to sixteen 69506  
unrelated adults. 69507

(B) As used in Title LVII of the Revised Code, and for the 69508  
purpose of other sections of the Revised Code that refer 69509  
specifically to Chapter 5701. or section 5701.13 of the Revised 69510  
Code, a "home for the aged" means either of the following: 69511

(1) A place of residence for aged and infirm persons that 69512  
satisfies divisions (B)(1)(a) to (e) of this section: 69513

(a) It is a nursing home, residential care facility, or ~~adult~~ 69514  
~~care~~ residential facility. 69515

(b) It is owned by a corporation, unincorporated association, 69516  
or trust of a charitable, religious, or fraternal nature, which is 69517  
organized and operated not for profit, which is not formed for the 69518  
pecuniary gain or profit of, and whose net earnings or any part of 69519  
whose net earnings is not distributable to, its members, trustees, 69520  
officers, or other private persons, and which is exempt from 69521  
federal income taxation under section 501 of the "Internal Revenue 69522  
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 69523

(c) It is open to the public without regard to race, color, 69524  
or national origin. 69525

(d) It does not pay, directly or indirectly, compensation for 69526  
services rendered, interest on debts incurred, or purchase price 69527  
for land, building, equipment, supplies, or other goods or 69528  
chattels, which compensation, interest, or purchase price is 69529  
unreasonably high. 69530

(e) It provides services for the life of each resident 69531  
without regard to the resident's ability to continue payment for 69532  
the full cost of the services. 69533

(2) A place of residence that satisfies divisions (B)(1)(b), 69534  
(d), and (e) of this section; that satisfies the definition of 69535

"nursing home" or "residential care facility" under section 69536  
3721.01 of the Revised Code or the definition of "~~adult care~~ 69537  
residential facility" under ~~section 5119.70 of the Revised Code~~ 69538  
division (A)(3) of this section regardless of whether it is 69539  
licensed as such a home or facility; and that is provided at no 69540  
charge to individuals on account of their service without 69541  
compensation to a charitable, religious, fraternal, or educational 69542  
institution, which individuals are aged or infirm and are members 69543  
of the corporation, association, or trust that owns the place of 69544  
residence. For the purposes of division (B)(2) of this section, 69545  
"compensation" does not include furnishing room and board, 69546  
clothing, health care, or other necessities, or stipends or other 69547  
de minimis payments to defray the cost thereof. 69548

Exemption from taxation shall be accorded, on proper 69549  
application, only to those homes or parts of homes which meet the 69550  
standards and provide the services specified in this section. 69551

Nothing in this section shall be construed as preventing a 69552  
home from requiring a resident with financial need to apply for 69553  
any applicable financial assistance or requiring a home to retain 69554  
a resident who willfully refuses to pay for services for which the 69555  
resident has contracted even though the resident has sufficient 69556  
resources to do so. 69557

(C)(1) If a corporation, unincorporated association, or trust 69558  
described in division (B)(1)(b) of this section is granted a 69559  
certificate of need pursuant to section 3702.52 of the Revised 69560  
Code to construct, add to, or otherwise modify a nursing home, or 69561  
is given approval pursuant to section 3791.04 of the Revised Code 69562  
to construct, add to, or otherwise modify a residential care 69563  
facility or ~~adult care~~ residential facility and if the 69564  
corporation, association, or trust submits an affidavit to the tax 69565  
commissioner stating that, commencing on the date of licensure and 69566  
continuing thereafter, the home or facility will be operated in 69567

accordance with the requirements of divisions (B)(1)(a) to (e) of 69568  
this section, the corporation, association, or trust shall be 69569  
considered to be operating a "home for the aged" within the 69570  
meaning of division (B)(1) of this section, beginning on the first 69571  
day of January of the year in which such certificate is granted or 69572  
approval is given. 69573

(2) If a corporation, association, or trust is considered to 69574  
be operating a "home for the aged" pursuant to division (C)(1) of 69575  
this section, the corporation, association, or trust shall notify 69576  
the tax commissioner in writing upon the occurrence of any of the 69577  
following events: 69578

(a) The corporation, association, or trust no longer intends 69579  
to complete the construction of, addition to, or modification of 69580  
the home or facility, to obtain the appropriate license for the 69581  
home or facility, or to commence operation of the home or facility 69582  
in accordance with the requirements of divisions (B)(1)(a) to (e) 69583  
of this section; 69584

(b) The certificate of approval referred to in division 69585  
(C)(1) of this section expires, is revoked, or is otherwise 69586  
terminated prior to the completion of the construction of, 69587  
addition to, or modification of the home or facility; 69588

(c) The license to operate the home or facility is not 69589  
granted by the director of health within one year following 69590  
completion of the construction of, addition to, or modification of 69591  
the home or facility; 69592

(d) The license to operate the home or facility is not 69593  
granted by the director of health within four years following the 69594  
date upon which the certificate or approval referred to in 69595  
division (C)(1) of this section was granted or given; 69596

(e) The home or facility is granted a license to operate as a 69597  
nursing home, residential care facility, or ~~adult care~~ residential 69598

facility. 69599

(3) Upon the occurrence of any of the events referred to in 69600  
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 69601  
corporation, association, or trust shall no longer be considered 69602  
to be operating a "home for the aged" pursuant to division (C)(1) 69603  
of this section, except that the tax commissioner, for good cause 69604  
shown and to the extent the commissioner considers appropriate, 69605  
may extend the time period specified in division (C)(2)(c) or (d) 69606  
of this section, or both. Nothing in division (C)(3) of this 69607  
section shall be construed to prevent a nursing home, residential 69608  
care facility, or ~~adult-care~~ residential facility from qualifying 69609  
as a "home for the aged" if, upon proper application made pursuant 69610  
to division (B) of this section, it is found to meet the 69611  
requirements of divisions (A) and (B) of this section. 69612

**Sec. 5703.05.** All powers, duties, and functions of the 69613  
department of taxation are vested in and shall be performed by the 69614  
tax commissioner, which powers, duties, and functions shall 69615  
include, but shall not be limited to, the following: 69616

(A) Prescribing all blank forms which the department is 69617  
authorized to prescribe, and to provide such forms and distribute 69618  
the same as required by law and the rules of the department. 69619

(B) Exercising the authority provided by law, including 69620  
orders from bankruptcy courts, relative to remitting or refunding 69621  
taxes or assessments, including penalties and interest thereon, 69622  
illegally or erroneously assessed or collected, or for any other 69623  
reason overpaid, and in addition, the commissioner may on written 69624  
application of any person, firm, or corporation claiming to have 69625  
overpaid to the treasurer of state at any time within five years 69626  
prior to the making of such application any tax payable under any 69627  
law which the department of taxation is required to administer 69628  
which does not contain any provision for refund, or on the 69629

commissioner's own motion investigate the facts and make in 69630  
triplicate a written statement of the commissioner's findings, 69631  
and, if the commissioner finds that there has been an overpayment, 69632  
issue in triplicate a certificate of abatement payable to the 69633  
taxpayer, the taxpayer's assigns, or legal representative which 69634  
shows the amount of the overpayment and the kind of tax overpaid. 69635  
One copy of such statement shall be entered on the journal of the 69636  
commissioner, one shall be certified to the attorney general, and 69637  
one certified copy shall be delivered to the taxpayer. All copies 69638  
of the certificate of abatement shall be transmitted to the 69639  
attorney general, and if the attorney general finds it to be 69640  
correct the attorney general shall so certify on each copy, and 69641  
deliver one copy to the taxpayer, one copy to the commissioner, 69642  
and the third copy to the treasurer of state. Except as provided 69643  
in ~~sections~~ section 5725.08 and ~~5725.16~~ of the Revised Code, the 69644  
taxpayer's copy of any certificates of abatement may be tendered 69645  
by the payee or transferee thereof to the treasurer of state, or 69646  
to the commissioner on behalf of the treasurer, as payment, to the 69647  
extent of the amount thereof, of any tax payable to the treasurer 69648  
of state. 69649

(C) Exercising the authority provided by law relative to 69650  
consenting to the compromise and settlement of tax claims; 69651

(D) Exercising the authority provided by law relative to the 69652  
use of alternative tax bases by taxpayers in the making of 69653  
personal property tax returns; 69654

(E) Exercising the authority provided by law relative to 69655  
authorizing the prepayment of taxes on retail sales of tangible 69656  
personal property or on the storage, use, or consumption of 69657  
personal property, and waiving the collection of such taxes from 69658  
the consumers; 69659

(F) Exercising the authority provided by law to revoke 69660  
licenses; 69661

(G) Maintaining a continuous study of the practical operation 69662  
of all taxation and revenue laws of the state, the manner in which 69663  
and extent to which such laws provide revenues for the support of 69664  
the state and its political subdivisions, the probable effect upon 69665  
such revenue of possible changes in existing laws, and the 69666  
possible enactment of measures providing for other forms of 69667  
taxation. For this purpose the commissioner may establish and 69668  
maintain a division of research and statistics, and may appoint 69669  
necessary employees who shall be in the unclassified civil 69670  
service; the results of such study shall be available to the 69671  
members of the general assembly and the public. 69672

(H) Making all tax assessments, valuations, findings, 69673  
determinations, computations, and orders the department of 69674  
taxation is by law authorized and required to make and, pursuant 69675  
to time limitations provided by law, on the commissioner's own 69676  
motion, reviewing, redetermining, or correcting any tax 69677  
assessments, valuations, findings, determinations, computations, 69678  
or orders the commissioner has made, but the commissioner shall 69679  
not review, redetermine, or correct any tax assessment, valuation, 69680  
finding, determination, computation, or order which the 69681  
commissioner has made as to which an appeal or application for 69682  
rehearing, review, redetermination, or correction has been filed 69683  
with the board of tax appeals, unless such appeal or application 69684  
is withdrawn by the appellant or applicant or dismissed; 69685

(I) Appointing not more than five deputy tax commissioners, 69686  
who, under such regulations as the rules of the department of 69687  
taxation prescribe, may act for the commissioner in the 69688  
performance of such duties as the commissioner prescribes in the 69689  
administration of the laws which the commissioner is authorized 69690  
and required to administer, and who shall serve in the 69691  
unclassified civil service at the pleasure of the commissioner, 69692  
but if a person who holds a position in the classified service is 69693

appointed, it shall not affect the civil service status of such 69694  
person. The commissioner may designate not more than two of the 69695  
deputy commissioners to act as commissioner in case of the 69696  
absence, disability, or recusal of the commissioner or vacancy in 69697  
the office of commissioner. The commissioner may adopt rules 69698  
relating to the order of precedence of such designated deputy 69699  
commissioners and to their assumption and administration of the 69700  
office of commissioner. 69701

(J) Appointing and prescribing the duties of all other 69702  
employees of the department of taxation necessary in the 69703  
performance of the work of the department which the tax 69704  
commissioner is by law authorized and required to perform, and 69705  
creating such divisions or sections of employees as, in the 69706  
commissioner's judgment, is proper; 69707

(K) Organizing the work of the department, which the 69708  
commissioner is by law authorized and required to perform, so 69709  
that, in the commissioner's judgment, an efficient and economical 69710  
administration of the laws will result; 69711

(L) Maintaining a journal, which is open to public 69712  
inspection, in which the tax commissioner shall keep a record of 69713  
all final determinations of the commissioner; 69714

(M) Adopting and promulgating, in the manner provided by 69715  
section 5703.14 of the Revised Code, all rules of the department, 69716  
including rules for the administration of sections 3517.16, 69717  
3517.17, and 5747.081 of the Revised Code; 69718

(N) Destroying any or all returns or assessment certificates 69719  
in the manner authorized by law; 69720

(O) Adopting rules, in accordance with division (B) of 69721  
section 325.31 of the Revised Code, governing the expenditure of 69722  
moneys from the real estate assessment fund under that division. 69723

**Sec. 5705.08.** On or before the first Monday in May of each year, the fiscal officer of each subdivision ~~that is not a, except~~ school ~~district~~ districts and the city of Cincinnati, shall certify to its taxing authority the amount necessary to provide for the payment of final judgments against the subdivision, except in condemnation of property cases. The taxing authority shall place such certified amount in each budget and in the annual appropriation measure for the full amount certified.

On or before the first Monday in November of each year, the fiscal officer of the city of Cincinnati and of each school district shall certify to its ~~board of education~~ taxing authority the amount necessary to provide for the payment of final judgments against the ~~district~~ subdivision, except in condemnation of property cases. The ~~board of education~~ taxing authority shall place such certified amount in each budget and in the annual appropriation measure for the full amount certified.

**Sec. 5705.19.** This section does not apply to school districts or county school financing districts.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code

shall not exceed two mills and that the total levy for current 69754  
expenses of a combined district organized under sections 2151.65 69755  
and 2152.41 of the Revised Code shall not exceed four mills; 69756

(B) For the payment of debt charges on certain described 69757  
bonds, notes, or certificates of indebtedness of the subdivision 69758  
issued subsequent to January 1, 1925; 69759

(C) For the debt charges on all bonds, notes, and 69760  
certificates of indebtedness issued and authorized to be issued 69761  
prior to January 1, 1925; 69762

(D) For a public library of, or supported by, the subdivision 69763  
under whatever law organized or authorized to be supported; 69764

(E) For a municipal university, not to exceed two mills over 69765  
the limitation of one mill prescribed in section 3349.13 of the 69766  
Revised Code; 69767

(F) For the construction or acquisition of any specific 69768  
permanent improvement or class of improvements that the taxing 69769  
authority of the subdivision may include in a single bond issue; 69770

(G) For the general construction, reconstruction, 69771  
resurfacing, and repair of streets, roads, and bridges in 69772  
municipal corporations, counties, or townships; 69773

(H) For parks and recreational purposes; 69774

(I) For the purpose of providing and maintaining fire 69775  
apparatus, appliances, buildings, or sites therefor, or sources of 69776  
water supply and materials therefor, or the establishment and 69777  
maintenance of lines of fire alarm telegraph, or the payment of 69778  
firefighting companies or permanent, part-time, or volunteer 69779  
firefighting, emergency medical service, administrative, or 69780  
communications personnel to operate the same, including the 69781  
payment of any employer contributions required for such personnel 69782  
under section 145.48 or 742.34 of the Revised Code, or the 69783

purchase of ambulance equipment, or the provision of ambulance, 69784  
paramedic, or other emergency medical services operated by a fire 69785  
department or firefighting company; 69786

(J) For the purpose of providing and maintaining motor 69787  
vehicles, communications, other equipment, buildings, and sites 69788  
for such buildings used directly in the operation of a police 69789  
department, or the payment of salaries of permanent or part-time 69790  
police, communications, or administrative personnel to operate the 69791  
same, including the payment of any employer contributions required 69792  
for such personnel under section 145.48 or 742.33 of the Revised 69793  
Code, or the payment of the costs incurred by townships as a 69794  
result of contracts made with other political subdivisions in 69795  
order to obtain police protection, or the provision of ambulance 69796  
or emergency medical services operated by a police department; 69797

(K) For the maintenance and operation of a county home or 69798  
detention facility; 69799

(L) For community mental retardation and developmental 69800  
disabilities programs and services pursuant to Chapter 5126. of 69801  
the Revised Code, except that the procedure for such levies shall 69802  
be as provided in section 5705.222 of the Revised Code; 69803

(M) For regional planning; 69804

(N) For a county's share of the cost of maintaining and 69805  
operating schools, district detention facilities, forestry camps, 69806  
or other facilities, or any combination thereof, established under 69807  
section 2151.65 or 2152.41 of the Revised Code or both of those 69808  
sections; 69809

(O) For providing for flood defense, providing and 69810  
maintaining a flood wall or pumps, and other purposes to prevent 69811  
floods; 69812

(P) For maintaining and operating sewage disposal plants and 69813  
facilities; 69814

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| (Q) For the purpose of purchasing, acquiring, constructing,        | 69815 |
| enlarging, improving, equipping, repairing, maintaining, or        | 69816 |
| operating, or any combination of the foregoing, a county transit   | 69817 |
| system pursuant to sections 306.01 to 306.13 of the Revised Code,  | 69818 |
| or of making any payment to a board of county commissioners        | 69819 |
| operating a transit system or a county transit board pursuant to   | 69820 |
| section 306.06 of the Revised Code;                                | 69821 |
| (R) For the subdivision's share of the cost of acquiring or        | 69822 |
| constructing any schools, forestry camps, detention facilities, or | 69823 |
| other facilities, or any combination thereof, under section        | 69824 |
| 2151.65 or 2152.41 of the Revised Code or both of those sections;  | 69825 |
| (S) For the prevention, control, and abatement of air              | 69826 |
| pollution;   | 69827 |
| (T) For maintaining and operating cemeteries;                      | 69828 |
| (U) For providing ambulance service, emergency medical             | 69829 |
| service, or both;  | 69830 |
| (V) For providing for the collection and disposal of garbage       | 69831 |
| or refuse, including yard waste;                                   | 69832 |
| (W) For the payment of the police officer employers'               | 69833 |
| contribution or the firefighter employers' contribution required   | 69834 |
| under sections 742.33 and 742.34 of the Revised Code;              | 69835 |
| (X) For the construction and maintenance of a drainage             | 69836 |
| improvement pursuant to section 6131.52 of the Revised Code;       | 69837 |
| (Y) For providing or maintaining senior citizens services or       | 69838 |
| facilities as authorized by section 307.694, 307.85, 505.70, or    | 69839 |
| 505.706 or division (EE) of section 717.01 of the Revised Code;    | 69840 |
| (Z) For the provision and maintenance of zoological park           | 69841 |
| services and facilities as authorized under section 307.76 of the  | 69842 |
| Revised Code;  | 69843 |
| (AA) For the maintenance and operation of a free public            | 69844 |

museum of art, science, or history; 69845

(BB) For the establishment and operation of a 9-1-1 system, 69846  
as defined in section 4931.40 of the Revised Code; 69847

(CC) For the purpose of acquiring, rehabilitating, or 69848  
developing rail property or rail service. As used in this 69849  
division, "rail property" and "rail service" have the same 69850  
meanings as in section 4981.01 of the Revised Code. This division 69851  
applies only to a county, township, or municipal corporation. 69852

(DD) For the purpose of acquiring property for, constructing, 69853  
operating, and maintaining community centers as provided for in 69854  
section 755.16 of the Revised Code; 69855

(EE) For the creation and operation of an office or joint 69856  
office of economic development, for any economic development 69857  
purpose of the office, and to otherwise provide for the 69858  
establishment and operation of a program of economic development 69859  
pursuant to sections 307.07 and 307.64 of the Revised Code, or to 69860  
the extent that the expenses of a county land reutilization 69861  
corporation organized under Chapter 1724. of the Revised Code are 69862  
found by the board of county commissioners to constitute the 69863  
promotion of economic development, for the payment of such 69864  
operations and expenses; 69865

(FF) For the purpose of acquiring, establishing, 69866  
constructing, improving, equipping, maintaining, or operating, or 69867  
any combination of the foregoing, a township airport, landing 69868  
field, or other air navigation facility pursuant to section 505.15 69869  
of the Revised Code; 69870

(GG) For the payment of costs incurred by a township as a 69871  
result of a contract made with a county pursuant to section 69872  
505.263 of the Revised Code in order to pay all or any part of the 69873  
cost of constructing, maintaining, repairing, or operating a water 69874  
supply improvement; 69875

(HH) For a board of township trustees to acquire, other than 69876  
by appropriation, an ownership interest in land, water, or 69877  
wetlands, or to restore or maintain land, water, or wetlands in 69878  
which the board has an ownership interest, not for purposes of 69879  
recreation, but for the purposes of protecting and preserving the 69880  
natural, scenic, open, or wooded condition of the land, water, or 69881  
wetlands against modification or encroachment resulting from 69882  
occupation, development, or other use, which may be styled as 69883  
protecting or preserving "greenspace" in the resolution, notice of 69884  
election, or ballot form. Except as otherwise provided in this 69885  
division, land is not acquired for purposes of recreation, even if 69886  
the land is used for recreational purposes, so long as no 69887  
building, structure, or fixture used for recreational purposes is 69888  
permanently attached or affixed to the land. Except as otherwise 69889  
provided in this division, land that previously has been acquired 69890  
in a township for these greenspace purposes may subsequently be 69891  
used for recreational purposes if the board of township trustees 69892  
adopts a resolution approving that use and no building, structure, 69893  
or fixture used for recreational purposes is permanently attached 69894  
or affixed to the land. The authorization to use greenspace land 69895  
for recreational use does not apply to land located in a township 69896  
that had a population, at the time it passed its first greenspace 69897  
levy, of more than thirty-eight thousand within a county that had 69898  
a population, at that time, of at least eight hundred sixty 69899  
thousand. 69900

(II) For the support by a county of a crime victim assistance 69901  
program that is provided and maintained by a county agency or a 69902  
private, nonprofit corporation or association under section 307.62 69903  
of the Revised Code; 69904

(JJ) For any or all of the purposes set forth in divisions 69905  
(I) and (J) of this section. This division applies only to a 69906  
township. 69907

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| (KK) For a countywide public safety communications system         | 69908 |
| under section 307.63 of the Revised Code. This division applies   | 69909 |
| only to counties.   | 69910 |
| (LL) For the support by a county of criminal justice services     | 69911 |
| under section 307.45 of the Revised Code;                         | 69912 |
| (MM) For the purpose of maintaining and operating a jail or       | 69913 |
| other detention facility as defined in section 2921.01 of the     | 69914 |
| Revised Code;   | 69915 |
| (NN) For purchasing, maintaining, or improving, or any            | 69916 |
| combination of the foregoing, real estate on which to hold        | 69917 |
| agricultural fairs. This division applies only to a county.       | 69918 |
| (OO) For constructing, rehabilitating, repairing, or              | 69919 |
| maintaining sidewalks, walkways, trails, bicycle pathways, or     | 69920 |
| similar improvements, or acquiring ownership interests in land    | 69921 |
| necessary for the foregoing improvements;                         | 69922 |
| (PP) For both of the purposes set forth in divisions (G) and      | 69923 |
| (OO) of this section.   | 69924 |
| (QQ) For both of the purposes set forth in divisions (H) and      | 69925 |
| (HH) of this section. This division applies only to a township.   | 69926 |
| (RR) For the legislative authority of a municipal                 | 69927 |
| corporation, board of county commissioners of a county, or board  | 69928 |
| of township trustees of a township to acquire agricultural        | 69929 |
| easements, as defined in section 5301.67 of the Revised Code, and | 69930 |
| to supervise and enforce the easements.                           | 69931 |
| (SS) For both of the purposes set forth in divisions (BB) and     | 69932 |
| (KK) of this section. This division applies only to a county.     | 69933 |
| (TT) For the maintenance and operation of a facility that is      | 69934 |
| organized in whole or in part to promote the sciences and natural | 69935 |
| history under section 307.761 of the Revised Code.                | 69936 |
| (UU) For the creation and operation of a county land              | 69937 |

reutilization corporation and for any programs or activities of 69938  
the corporation found by the board of directors of the corporation 69939  
to be consistent with the purposes for which the corporation is 69940  
organized; 69941

(VV) For construction and maintenance of improvements and 69942  
expenses of soil and water conservation district programs under 69943  
Chapter 1515. of the Revised Code; 69944

(WW) For the Ohio cooperative extension service fund created 69945  
under section 3335.35 of the Revised Code for the purposes 69946  
prescribed under section 3335.36 of the Revised Code for the 69947  
benefit of the citizens of a county. This division applies only to 69948  
a county. 69949

(XX) For a municipal corporation that withdraws or proposes 69950  
by resolution to withdraw from a regional transit authority under 69951  
section 306.55 of the Revised Code to provide transportation 69952  
services for the movement of persons within, from, or to the 69953  
municipal corporation. 69954

The resolution shall be confined to the purpose or purposes 69955  
described in one division of this section, to which the revenue 69956  
derived therefrom shall be applied. The existence in any other 69957  
division of this section of authority to levy a tax for any part 69958  
or all of the same purpose or purposes does not preclude the use 69959  
of such revenues for any part of the purpose or purposes of the 69960  
division under which the resolution is adopted. 69961

The resolution shall specify the amount of the increase in 69962  
rate that it is necessary to levy, the purpose of that increase in 69963  
rate, and the number of years during which the increase in rate 69964  
shall be in effect, which may or may not include a levy upon the 69965  
duplicate of the current year. The number of years may be any 69966  
number not exceeding five, except as follows: 69967

(1) When the additional rate is for the payment of debt 69968

charges, the increased rate shall be for the life of the 69969  
indebtedness. 69970

(2) When the additional rate is for any of the following, the 69971  
increased rate shall be for a continuing period of time: 69972

(a) For the current expenses for a detention facility 69973  
district, a district organized under section 2151.65 of the 69974  
Revised Code, or a combined district organized under sections 69975  
2151.65 and 2152.41 of the Revised Code; 69976

(b) For providing a county's share of the cost of maintaining 69977  
and operating schools, district detention facilities, forestry 69978  
camps, or other facilities, or any combination thereof, 69979  
established under section 2151.65 or 2152.41 of the Revised Code 69980  
or under both of those sections. 69981

(3) When the additional rate is for either of the following, 69982  
the increased rate may be for a continuing period of time: 69983

(a) For the purposes set forth in division (I), (J), (U), or 69984  
(KK) of this section; 69985

(b) For the maintenance and operation of a joint recreation 69986  
district. 69987

(4) When the increase is for the purpose or purposes set 69988  
forth in division (D), (G), (H), (CC), or (PP) of this section, 69989  
the tax levy may be for any specified number of years or for a 69990  
continuing period of time, as set forth in the resolution. 69991

(5) When the additional rate is for the purpose described in 69992  
division (Z) of this section, the increased rate shall be for any 69993  
number of years not exceeding ten. 69994

A levy for one of the purposes set forth in division (G), 69995  
(I), (J), or (U) of this section may be reduced pursuant to 69996  
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 69997  
the purposes set forth in division (G), (I), (J), or (U) of this 69998

section may also be terminated or permanently reduced by the 69999  
taxing authority if it adopts a resolution stating that the 70000  
continuance of the levy is unnecessary and the levy shall be 70001  
terminated or that the millage is excessive and the levy shall be 70002  
decreased by a designated amount. 70003

A resolution of a detention facility district, a district 70004  
organized under section 2151.65 of the Revised Code, or a combined 70005  
district organized under both sections 2151.65 and 2152.41 of the 70006  
Revised Code may include both current expenses and other purposes, 70007  
provided that the resolution shall apportion the annual rate of 70008  
levy between the current expenses and the other purpose or 70009  
purposes. The apportionment need not be the same for each year of 70010  
the levy, but the respective portions of the rate actually levied 70011  
each year for the current expenses and the other purpose or 70012  
purposes shall be limited by the apportionment. 70013

Whenever a board of county commissioners, acting either as 70014  
the taxing authority of its county or as the taxing authority of a 70015  
sewer district or subdistrict created under Chapter 6117. of the 70016  
Revised Code, by resolution declares it necessary to levy a tax in 70017  
excess of the ten-mill limitation for the purpose of constructing, 70018  
improving, or extending sewage disposal plants or sewage systems, 70019  
the tax may be in effect for any number of years not exceeding 70020  
twenty, and the proceeds of the tax, notwithstanding the general 70021  
provisions of this section, may be used to pay debt charges on any 70022  
obligations issued and outstanding on behalf of the subdivision 70023  
for the purposes enumerated in this paragraph, provided that any 70024  
such obligations have been specifically described in the 70025  
resolution. 70026

A resolution adopted by the legislative authority of a 70027  
municipal corporation that is for the purpose in division (XX) of 70028  
this section may be combined with the purpose provided in section 70029  
306.55 of the Revised Code, by vote of two-thirds of all members 70030

of the legislative authority. The legislative authority may 70031  
certify the resolution to the board of elections as a combined 70032  
question. The question appearing on the ballot shall be as 70033  
provided in section 5705.252 of the Revised Code. 70034

The resolution shall go into immediate effect upon its 70035  
passage, and no publication of the resolution is necessary other 70036  
than that provided for in the notice of election. 70037

When the electors of a subdivision have approved a tax levy 70038  
under this section, the taxing authority of the subdivision may 70039  
anticipate a fraction of the proceeds of the levy and issue 70040  
anticipation notes in accordance with section 5705.191 or 5705.193 70041  
of the Revised Code. 70042

**Sec. 5705.25.** (A) A copy of any resolution adopted as 70043  
provided in section 5705.19 or 5705.2111 of the Revised Code shall 70044  
be certified by the taxing authority to the board of elections of 70045  
the proper county not less than ninety days before the general 70046  
election in any year, and the board shall submit the proposal to 70047  
the electors of the subdivision at the succeeding November 70048  
election. Except as otherwise provided in this division, a 70049  
resolution to renew an existing levy, regardless of the section of 70050  
the Revised Code under which the tax was imposed, shall not be 70051  
placed on the ballot unless the question is submitted at the 70052  
general election held during the last year the tax to be renewed 70053  
or replaced may be extended on the real and public utility 70054  
property tax list and duplicate, or at any election held in the 70055  
ensuing year. The limitation of the foregoing sentence does not 70056  
apply to a resolution to renew and increase or to renew part of an 70057  
existing levy that was imposed under section 5705.191 of the 70058  
Revised Code to supplement the general fund for the purpose of 70059  
making appropriations for one or more of the following purposes: 70060  
for public assistance, human or social services, relief, welfare, 70061

hospitalization, health, and support of general hospitals. The 70062  
limitation of the second preceding sentence also does not apply to 70063  
a resolution that proposes to renew two or more existing levies 70064  
imposed under section 5705.21 of the Revised Code, in which case 70065  
the question shall be submitted on the date of the general or 70066  
primary election held during the last year at least one of the 70067  
levies to be renewed may be extended on the real and public 70068  
utility property tax list and duplicate, or at any election held 70069  
during the ensuing year. For purposes of this section, a levy 70070  
shall be considered to be an "existing levy" through the year 70071  
following the last year it can be placed on that tax list and 70072  
duplicate. 70073

The board shall make the necessary arrangements for the 70074  
submission of such questions to the electors of such subdivision, 70075  
and the election shall be conducted, canvassed, and certified in 70076  
the same manner as regular elections in such subdivision for the 70077  
election of county officers. Notice of the election shall be 70078  
published in a newspaper of general circulation in the subdivision 70079  
once a week for two consecutive weeks, or as provided in section 70080  
7.16 of the Revised Code, prior to the election. If the board of 70081  
elections operates and maintains a web site, the board of 70082  
elections shall post notice of the election on its web site for 70083  
thirty days prior to the election. The notice shall state the 70084  
purpose, the proposed increase in rate expressed in dollars and 70085  
cents for each one hundred dollars of valuation as well as in 70086  
mills for each one dollar of valuation, the number of years during 70087  
which the increase will be in effect, the first month and year in 70088  
which the tax will be levied, and the time and place of the 70089  
election. 70090

(B) The form of the ballots cast at an election held pursuant 70091  
to division (A) of this section shall be as follows: 70092

"An additional tax for the benefit of (name of subdivision or 70093

public library) ..... for the purpose of (purpose stated in 70094  
the resolution) ..... at a rate not exceeding ..... mills 70095  
for each one dollar of valuation, which amounts to (rate expressed 70096  
in dollars and cents) ..... for each one hundred dollars of 70097  
valuation, for ..... (life of indebtedness or number of years the 70098  
levy is to run). 70099

|  |                      |   |
|--|----------------------|---|
|  | For the Tax Levy     |   |
|  | Against the Tax Levy | " |

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70101  
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(C) If the levy is to be in effect for a continuing period of 70104  
time, the notice of election and the form of ballot shall so state 70105  
instead of setting forth a specified number of years for the levy. 70106

If the tax is to be placed on the current tax list, the form 70107  
of the ballot shall be modified by adding, after the statement of 70108  
the number of years the levy is to run, the phrase ", commencing 70109  
in ..... (first year the tax is to be levied), first due in 70110  
calendar year ..... (first calendar year in which the tax 70111  
shall be due)." 70112

If the levy submitted is a proposal to renew, increase, or 70113  
decrease an existing levy, the form of the ballot specified in 70114  
division (B) of this section may be changed by substituting for 70115  
the words "An additional" at the beginning of the form, the words 70116  
"A renewal of a" in case of a proposal to renew an existing levy 70117  
in the same amount; the words "A renewal of ..... mills and an 70118  
increase of ..... mills to constitute a" in the case of an 70119  
increase; or the words "A renewal of part of an existing levy, 70120  
being a reduction of ..... mills, to constitute a" in the case of 70121  
a decrease in the proposed levy. 70122

If the levy submitted is a proposal to renew two or more 70123  
existing levies imposed under section 5705.21 of the Revised Code, 70124

the form of the ballot specified in division (B) of this section 70125  
shall be modified by substituting for the words "an additional 70126  
tax" the words "a renewal of ....(insert the number of levies to 70127  
be renewed) existing taxes." 70128

If the levy submitted is a levy under section 5705.72 of the 70129  
Revised Code or a proposal to renew, increase, or decrease an 70130  
existing levy imposed under that section, the name of the 70131  
subdivision shall be "the unincorporated area of ..... (name 70132  
of township)." 70133

The question covered by such resolution shall be submitted as 70134  
a separate proposition but may be printed on the same ballot with 70135  
any other proposition submitted at the same election, other than 70136  
the election of officers. More than one such question may be 70137  
submitted at the same election. 70138

(D) A levy voted in excess of the ten-mill limitation under 70139  
this section shall be certified to the tax commissioner. In the 70140  
first year of the levy, it shall be extended on the tax lists 70141  
after the February settlement succeeding the election. If the 70142  
additional tax is to be placed upon the tax list of the current 70143  
year, as specified in the resolution providing for its submission, 70144  
the result of the election shall be certified immediately after 70145  
the canvass by the board of elections to the taxing authority, who 70146  
shall make the necessary levy and certify it to the county 70147  
auditor, who shall extend it on the tax lists for collection. 70148  
After the first year, the tax levy shall be included in the annual 70149  
tax budget that is certified to the county budget commission. 70150

Sec. 5705.252. (A) If the legislative authority of a 70151  
municipal corporation adopts a resolution for the purposes 70152  
provided in section 306.55 of the Revised Code and division (XX) 70153  
of section 5705.19 of the Revised Code and certifies the 70154  
resolution to the board of elections as a combined question, the 70155

question appearing on the ballot shall read: 70156

"Shall the territory within the ..... (name of municipal corporation) be withdrawn from ..... (name of regional transit authority) and shall an additional tax be levied for the benefit of ..... (name of municipal corporation) ..... for the purpose of providing transportation services for the movement of persons within, from, or to the ..... (name of municipal corporation) 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)?" 70157  
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(B) If the board of trustees of a township adopts a 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: 70167  
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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)?" 70173  
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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: 70183  
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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;

(2) On or before the fifteenth day of July in the case of all other subdivisions and taxing units.

(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 this division shall adopt such tax budget on behalf of the library district, but such budget shall not be part of the school district's tax budget.

(2)(a) The taxing authority of a taxing unit that does not levy a tax is not required to adopt a tax budget pursuant to division (A) of this section. Instead, on or before the fifteenth day of July each year, such taxing authority shall adopt an operating budget for the taxing unit for the ensuing fiscal year. The operating budget shall include an estimate of receipts from all sources, a statement of all taxing unit expenses that are anticipated to occur, and the amount required for debt charges during the fiscal year. The operating budget is not required to be filed with the county auditor or the county budget commission.

(b) Except for this section and sections 5705.36, 5705.38, 5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised Code, a taxing unit that does not levy a tax is not a taxing unit for purposes of Chapter 5705. of the Revised Code. Documents prepared in accordance with such sections are not required to be filed with the county auditor or county budget commission.

(c) The total appropriations from each fund of a taxing unit 70218  
that does not levy a tax shall not exceed the total estimated 70219  
revenue available for expenditures from the fund, and 70220  
appropriations shall be made from each fund only for the purposes 70221  
for which the fund is established. 70222

(C)(1) To assist in the preparation of the tax budget, the 70223  
head of each department, board, commission, and district authority 70224  
entitled to participate in any appropriation or revenue of a 70225  
subdivision shall file with the taxing authority, or in the case 70226  
of a municipal corporation, with its chief executive officer, 70227  
before the forty-fifth day prior to the date on which the budget 70228  
must be adopted, an estimate of contemplated revenue and 70229  
expenditures for the ensuing fiscal year, in such form as is 70230  
prescribed by the taxing authority of the subdivision or by the 70231  
auditor of state. The taxing authority shall include in its budget 70232  
of expenditures the full amounts requested by district 70233  
authorities, not to exceed the amount authorized by law, if such 70234  
authorities may fix the amount of revenue they are to receive from 70235  
the subdivision. In a municipal corporation in which a special 70236  
levy for a municipal university has been authorized to be levied 70237  
in excess of the ten-mill limitation, or is required by the 70238  
charter of the municipal corporation, the taxing authority shall 70239  
include an amount not less than the estimated yield of such levy, 70240  
if such amount is requested by the board of directors of the 70241  
municipal university. 70242

(2) A county board of developmental disabilities may include 70243  
within its estimate of contemplated revenue and expenditures a 70244  
reserve balance account in the community developmental 70245  
disabilities residential services fund. The account shall contain 70246  
money that is not needed to pay for current expenses for 70247  
residential services and supported living but will be needed to 70248  
pay for expenses for such services in the future or may be needed 70249

for unanticipated emergency expenses. On the request of the county 70250  
board of developmental disabilities, the board of county 70251  
commissioners shall include such an account in its budget of 70252  
expenditures and appropriate money to the account from residential 70253  
service moneys for the county board. 70254

(D) The board of trustees of any public library desiring to 70255  
participate in the distribution of the county public library fund 70256  
shall adopt appropriate rules extending the benefits of the 70257  
library service of such library to all the inhabitants of the 70258  
county on equal terms, unless such library service is by law 70259  
available to all such inhabitants, and shall certify a copy of 70260  
such rules to the taxing authority with its estimate of 70261  
contemplated revenue and expenditures. Where such rules have been 70262  
so certified or where the adoption of such rules is not required, 70263  
the taxing authority shall include in its budget of receipts such 70264  
amounts as are specified by such board as contemplated revenue 70265  
from the county public library fund, and in its budget of 70266  
expenditures the full amounts requested therefrom by such board. 70267  
No library association, incorporated or unincorporated, is 70268  
entitled to participate in the proceeds of the county public 70269  
library fund unless such association both was organized and 70270  
operating prior to January 1, 1968, and participated in the 70271  
distribution of the proceeds of the county public library fund 70272  
prior to December 31, 2005. 70273

**Sec. 5705.30.** This section does not apply to a subdivision 70274  
for which the county budget commission has waived the requirement 70275  
to adopt a tax budget under section 5705.281 of the Revised Code. 70276

In addition to the information required by section 5705.29 of 70277  
the Revised Code, the budget of each subdivision and school 70278  
library district shall include such other information as is 70279  
prescribed by the auditor of state. At least two copies of the 70280

budget shall be filed in the office of the fiscal officer of the 70281  
subdivision for public inspection not less than ten days before 70282  
its adoption by the taxing authority, and such taxing authority 70283  
shall hold at least one public hearing thereon, of which public 70284  
notice shall be given by at least one publication not less than 70285  
ten days prior to the date of hearing in the official publication 70286  
of such subdivision, or in a newspaper having general circulation 70287  
in the subdivision. The budget, after adoption, shall be submitted 70288  
to the county auditor on or before the twentieth day of July, or 70289  
in the case of a school district or the city of Cincinnati, by the 70290  
twentieth day of January. The tax commissioner may prescribe a 70291  
later date for the submission of a subdivision's tax budget. Any 70292  
subdivision that fails to submit its budget to the county auditor 70293  
on or before the ~~twentieth day of July, unless the commissioner on~~ 70294  
~~or before the twentieth day of July prescribes~~ date prescribed by 70295  
this section or a later date for ~~submission of the budget by that~~ 70296  
~~subdivision, prescribed by the commissioner~~ shall not receive an 70297  
apportionment from the undivided local government fund 70298  
distribution for the ensuing calendar year, ~~unless upon review of~~ 70299  
~~the matter~~ the commissioner determines that the budget was adopted 70300  
by the subdivision on or before the ~~fifteenth~~ fifth day ~~of July~~ 70301  
before the date prescribed by this section for submitting the 70302  
budget, but was not submitted ~~to the county auditor~~ by the 70303  
~~twentieth day of July~~ date so prescribed or the later time 70304  
prescribed by the commissioner because of ministerial error by the 70305  
subdivision or its officers, employees, or other representatives. 70306

**Sec. 5705.34.** When the budget commission has completed its 70307  
work with respect to a tax budget or other information required to 70308  
be provided under section 5705.281 of the Revised Code, it shall 70309  
certify its action to the taxing authority, together with an 70310  
estimate by the county auditor of the rate of each tax necessary 70311  
to be levied by the taxing authority within its subdivision or 70312

taxing unit, and what part thereof is in excess of, and what part 70313  
within, the ten-mill tax limitation. The certification shall also 70314  
indicate the date on which each tax levied by the taxing authority 70315  
will expire. 70316

If a taxing authority levies a tax for a fixed sum of money 70317  
or to pay debt charges for the tax year for which the tax budget 70318  
is prepared, and a payment on account of that tax is payable to 70319  
the taxing authority for the tax year under section 5727.85, 70320  
5727.86, 5751.21, or 5751.22 of the Revised Code, the county 70321  
auditor, when estimating the rate at which the tax shall be levied 70322  
in the current year, shall estimate the rate necessary to raise 70323  
the required sum less the estimated amount of any payments made 70324  
for the tax year to a taxing unit for fixed-sum levies under those 70325  
sections. The estimated rate shall be the rate of the levy that 70326  
the budget commission certifies with its action under this 70327  
section. 70328

Each taxing authority, by ordinance or resolution, shall 70329  
authorize the necessary tax levies and certify them to the county 70330  
auditor before the first day of October in each year, or at such 70331  
later date as is approved by the tax commissioner, except that the 70332  
certification by the legislative authority of the city of 70333  
Cincinnati or by a board of education shall be made by the first 70334  
day of April or at such later date as is approved by the 70335  
commissioner, and except that a township board of park 70336  
commissioners that is appointed by the board of township trustees 70337  
and oversees a township park district that contains only 70338  
unincorporated territory shall authorize only those taxes approved 70339  
by, and only at the rate approved by, the board of township 70340  
trustees as required by division (C) of section 511.27 of the 70341  
Revised Code. If the levying of a tax to be placed on the 70342  
duplicate of the current year is approved by the electors of the 70343  
subdivision under sections 5705.01 to 5705.47 of the Revised Code; 70344

if the rate of a school district tax is increased due to the 70345  
repeal of a school district income tax and property tax rate 70346  
reduction at an election held pursuant to section 5748.04 of the 70347  
Revised Code; or if refunding bonds to refund all or a part of the 70348  
principal of bonds payable from a tax levy for the ensuing fiscal 70349  
year are issued or sold and in the process of delivery, the budget 70350  
commission shall reconsider and revise its action on the budget of 70351  
the subdivision or school library district for whose benefit the 70352  
tax is to be levied after the returns of such election are fully 70353  
canvassed, or after the issuance or sale of such refunding bonds 70354  
is certified to it. 70355

**Sec. 5705.35.** (A) The certification of the budget commission 70356  
to the taxing authority of each subdivision or taxing unit, as set 70357  
forth in section 5705.34 of the Revised Code, shall show the 70358  
various funds of such subdivisions other than funds to be created 70359  
by transfer and shall be filed by the county budget commission 70360  
with such taxing authority on or before the first day of March in 70361  
the case of school districts and the city of Cincinnati and on or 70362  
before the first day of September in each year in the case of all 70363  
other taxing authorities. There shall be set forth on the credit 70364  
side of each fund the estimated unencumbered balances and 70365  
receipts, and if a tax is to be levied for such fund, the 70366  
estimated revenue to be derived therefrom, the rate of the levy, 70367  
and what portion thereof is within, and what in excess of, the 70368  
ten-mill tax limitation, and on the debit side, the total 70369  
appropriations that may be made therefrom. Subject to division (G) 70370  
of section 5705.29 of the Revised Code, any reserve balance in an 70371  
account established under section 5705.13 of the Revised Code for 70372  
the purpose described in division (A)(1) of that section, and the 70373  
principal of a nonexpendable trust fund established under section 70374  
5705.131 of the Revised Code and any additions to principal 70375  
arising from sources other than the reinvestment of investment 70376

earnings arising from that fund, are not unencumbered balances for 70377  
the purposes of this section. The balance in a reserve balance 70378  
account established under section 5705.132 of the Revised Code is 70379  
not an unencumbered balance for the purposes of this division. 70380

There shall be attached to the certification a summary, which 70381  
shall be known as the "official certificate of estimated 70382  
resources," that shall state the total estimated resources of each 70383  
fund of the subdivision that are available for appropriation in 70384  
the fiscal year, other than funds to be created by transfer, and a 70385  
statement of the amount of the total tax duplicate of the school 70386  
district to be used in the collection of taxes for the following 70387  
calendar year. Before the end of the fiscal year, the taxing 70388  
authority of each subdivision and other taxing unit shall revise 70389  
its tax budget, if one was adopted, so that the total contemplated 70390  
expenditures from any fund during the ensuing fiscal year will not 70391  
exceed the total appropriations that may be made from such fund, 70392  
as determined by the budget commission in its certification; and 70393  
such revised budget shall be the basis of the annual appropriation 70394  
measure. 70395

(B)(1) Except as otherwise provided in division (B)(2) of 70396  
this section, revenues from real property taxes scheduled to be 70397  
settled on or before the tenth day of August and the fifteenth day 70398  
of February of a fiscal year under divisions (A) and (C) of 70399  
section 321.24 of the Revised Code, and revenue from taxes levied 70400  
on personal property used in business scheduled to be settled on 70401  
or before the thirty-first day of October and the thirtieth day of 70402  
June of a fiscal year under divisions (B) and (D) of section 70403  
321.24 of the Revised Code shall not be available for 70404  
appropriation by a board of education prior to the fiscal year in 70405  
which such latest scheduled settlement date occurs, except that 70406  
moneys advanced to the treasurer of a board of education under 70407  
division (A)(2)(b) of section 321.34 of the Revised Code shall be 70408

available for appropriation in the fiscal year in which they are 70409  
paid to the treasurer under such section. If the date for any 70410  
settlement of taxes is extended under division (E) of section 70411  
321.24 of the Revised Code, the latest date set forth in divisions 70412  
(A) to (D) of that section shall be used to determine in which 70413  
fiscal year the revenues are first available for appropriation. 70414

(2) Revenues available for appropriation by a school district 70415  
during a fiscal year may include amounts borrowed in that fiscal 70416  
year under section 133.301 of the Revised Code in anticipation of 70417  
the collection of taxes that are to be included in the settlements 70418  
made under divisions (C) and (D) of section 321.24 of the Revised 70419  
Code in the ensuing fiscal year. 70420

**Sec. 5705.38.** (A) This division does not apply to school 70421  
district appropriation measures. On or about the first day of each 70422  
fiscal year, the taxing authority of each subdivision or other 70423  
taxing unit shall pass an appropriation measure, and thereafter 70424  
during the year it may pass any supplemental appropriation 70425  
measures as it finds necessary, based on the revised tax budget or 70426  
the official certificate of estimated resources or amendments of 70427  
the certificate. If it desires to postpone the passage of the 70428  
annual appropriation measure until an amended certificate is 70429  
received based on the actual balances, it may pass a temporary 70430  
appropriation measure for meeting the ordinary expenses of the 70431  
taxing unit until no later than the first day of April or, in the 70432  
case of the city of Cincinnati, the first day of October, of the 70433  
current year, and the appropriations made in the temporary measure 70434  
shall be chargeable to the appropriations in the annual 70435  
appropriation measure for that fiscal year when passed. 70436

(B) A board of education shall pass its annual appropriation 70437  
measure by the first day of October. If, by the first day of 70438  
October, a board has not received either the amended certificates 70439

of estimated resources required by division (B) of section 5705.36 70440  
of the Revised Code or certifications that no amended certificates 70441  
need be issued, the adoption of the annual appropriation measure 70442  
shall be delayed until the amended certificates or certifications 70443  
are received. Prior to the passage of the annual appropriation 70444  
measure, the board may pass a temporary appropriation measure for 70445  
meeting the ordinary expenses of the district until it passes an 70446  
annual appropriation measure, and appropriations made in the 70447  
temporary measure shall be chargeable to the appropriations in the 70448  
annual appropriation measure for that fiscal year when passed. 70449  
During the fiscal year and after the passage of the annual 70450  
appropriation measure, a district may pass any supplemental 70451  
appropriation measures as it finds necessary, based on the revised 70452  
tax budget or the official certificate of estimated resources or 70453  
amendments of the certificate. School district appropriation 70454  
measures shall be in the form as the auditor of state, after 70455  
consultation with the tax commissioner, prescribes. 70456

(C) Appropriation measures shall be classified so as to set 70457  
forth separately the amounts appropriated for each office, 70458  
department, and division, and, within each, the amount 70459  
appropriated for personal services. In the case of a municipal 70460  
university, the board of directors of which have assumed, in the 70461  
manner provided by law, custody and control of the funds of the 70462  
university, funds shall be appropriated as a lump sum for the use 70463  
of the university. 70464

Sec. 5705.72. (A) As used in this section and in section 70465  
5705.25 of the Revised Code with regard to a levy submitted under 70466  
this section, "electors" means electors of the unincorporated area 70467  
of a township. 70468

(B) The board of trustees of any township that withdraws or 70469  
proposes by resolution to withdraw the unincorporated area of the 70470

township from a regional transit authority under section 306.55 of 70471  
the Revised Code, by vote of two-thirds of all the members of the 70472  
board of trustees, may declare by resolution that the amount of 70473  
taxes that may be raised within the ten-mill limitation will be 70474  
insufficient to provide transportation services to the 70475  
unincorporated area of the township and that it is necessary to 70476  
levy a tax in excess of that limitation within the unincorporated 70477  
area of that township for the purpose of providing transportation 70478  
services for the movement of persons within, from, or to the 70479  
unincorporated area of that township. 70480

The resolution shall specify the necessary amount of the 70481  
increase in rate to levy, the purpose of such increase, and the 70482  
number of years, not exceeding ten, during which the rate increase 70483  
shall be in effect, which may or may not include a levy upon the 70484  
tax list of the current year. 70485

The resolution shall be submitted to the proper county board 70486  
of elections not less than ninety days before the date of the 70487  
election at which the question will appear on the ballot and in 70488  
the manner provided by section 5705.25 of the Revised Code, except 70489  
that the question may be submitted to electors at a general 70490  
election or a special election held on a date consistent with 70491  
section 3501.01 of the Revised Code. 70492

A resolution adopted by the board of trustees of a township 70493  
under this section may be combined with a resolution for the 70494  
withdrawal of the unincorporated area of the township from a 70495  
regional transit authority as provided in section 306.55 of the 70496  
Revised Code, by vote of two-thirds of all members of the board. 70497  
The board may certify the combined resolution to the board of 70498  
elections as a combined question. The question appearing on the 70499  
ballot shall be as provided in section 5705.252 of the Revised 70500  
Code. 70501

When electors have approved a tax levy under this section, 70502

the board of township trustees may anticipate a fraction of the 70503  
proceeds of the levy and issue anticipation notes as authorized by 70504  
section 5705.191 of the Revised Code for a current expense levy 70505  
with a fixed term, and may anticipate the collection of current 70506  
revenue under section 133.10 of the Revised Code. 70507

**Sec. 5709.084.** Real and personal property comprising a 70508  
convention center that is constructed or, in the case of personal 70509  
property, acquired, after January 1, 2010, are exempt from 70510  
taxation if the convention center is located in a county having a 70511  
population, when construction of the convention center commences, 70512  
of more than one million two hundred thousand according to the 70513  
most recent federal decennial census, and if the convention 70514  
center, or the land upon which the convention center is situated, 70515  
is owned or leased by the county. For the purposes of this 70516  
section, construction of the convention center commences upon the 70517  
earlier of issuance of debt to finance all or a portion of the 70518  
convention center, demolition of existing structures on the site, 70519  
or grading of the site in preparation for construction. 70520

Real and personal property comprising a convention center 70521  
owned by the largest city in a county having a population greater 70522  
than seven hundred thousand but less than nine hundred thousand 70523  
according to the most recent federal decennial census is exempt 70524  
from taxation, regardless of whether the property is leased to or 70525  
otherwise operated or managed by a person other than the city. 70526

Real and personal property comprising a convention center 70527  
owned by a convention facilities authority in a county having a 70528  
population greater than one million according to the most recent 70529  
federal decennial census is exempt from taxation, regardless of 70530  
whether the property is leased to or otherwise operated or managed 70531  
by a person other than the convention facilities authority. 70532

As used in this section, "convention center" has the same 70533

meaning as in section 307.695 of the Revised Code. 70534

**Sec. 5709.12.** (A) As used in this section, "independent 70535  
living facilities" means any residential housing facilities and 70536  
related property that are not a nursing home, residential care 70537  
facility, or ~~adult care~~ residential facility as defined in 70538  
division (A) of section 5701.13 of the Revised Code. 70539

(B) Lands, houses, and other buildings belonging to a county, 70540  
township, or municipal corporation and used exclusively for the 70541  
accommodation or support of the poor, or leased to the state or 70542  
any political subdivision for public purposes shall be exempt from 70543  
taxation. Real and tangible personal property belonging to 70544  
institutions that is used exclusively for charitable purposes 70545  
shall be exempt from taxation, including real property belonging 70546  
to an institution that is a nonprofit corporation that receives a 70547  
grant under the Thomas Alva Edison grant program authorized by 70548  
division (C) of section 122.33 of the Revised Code at any time 70549  
during the tax year and being held for leasing or resale to 70550  
others. If, at any time during a tax year for which such property 70551  
is exempted from taxation, the corporation ceases to qualify for 70552  
such a grant, the director of development shall notify the tax 70553  
commissioner, and the tax commissioner shall cause the property to 70554  
be restored to the tax list beginning with the following tax year. 70555  
All property owned and used by a nonprofit organization 70556  
exclusively for a home for the aged, as defined in section 5701.13 70557  
of the Revised Code, also shall be exempt from taxation. 70558

(C)(1) If a home for the aged described in division (B)(1) of 70559  
section 5701.13 of the Revised Code is operated in conjunction 70560  
with or at the same site as independent living facilities, the 70561  
exemption granted in division (B) of this section shall include 70562  
kitchen, dining room, clinic, entry ways, maintenance and storage 70563  
areas, and land necessary for access commonly used by both 70564

residents of the home for the aged and residents of the 70565  
independent living facilities. Other facilities commonly used by 70566  
both residents of the home for the aged and residents of 70567  
independent living units shall be exempt from taxation only if the 70568  
other facilities are used primarily by the residents of the home 70569  
for the aged. Vacant land currently unused by the home, and 70570  
independent living facilities and the lands connected with them 70571  
are not exempt from taxation. Except as provided in division 70572  
(A)(1) of section 5709.121 of the Revised Code, property of a home 70573  
leased for nonresidential purposes is not exempt from taxation. 70574

(2) Independent living facilities are exempt from taxation if 70575  
they are operated in conjunction with or at the same site as a 70576  
home for the aged described in division (B)(2) of section 5701.13 70577  
of the Revised Code; operated by a corporation, association, or 70578  
trust described in division (B)(1)(b) of that section; operated 70579  
exclusively for the benefit of members of the corporation, 70580  
association, or trust who are retired, aged, or infirm; and 70581  
provided to those members without charge in consideration of their 70582  
service, without compensation, to a charitable, religious, 70583  
fraternal, or educational institution. For the purposes of 70584  
division (C)(2) of this section, "compensation" does not include 70585  
furnishing room and board, clothing, health care, or other 70586  
necessities, or stipends or other de minimis payments to defray 70587  
the cost thereof. 70588

(D)(1) A private corporation established under federal law, 70589  
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 70590  
amended, the objects of which include encouraging the advancement 70591  
of science generally, or of a particular branch of science, the 70592  
promotion of scientific research, the improvement of the 70593  
qualifications and usefulness of scientists, or the increase and 70594  
diffusion of scientific knowledge is conclusively presumed to be a 70595  
charitable or educational institution. A private corporation 70596

established as a nonprofit corporation under the laws of a state, 70597  
that is exempt from federal income taxation under section 70598  
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 70599  
U.S.C.A. 1, as amended, and has as its principal purpose one or 70600  
more of the foregoing objects, also is conclusively presumed to be 70601  
a charitable or educational institution. 70602

The fact that an organization described in this division 70603  
operates in a manner that results in an excess of revenues over 70604  
expenses shall not be used to deny the exemption granted by this 70605  
section, provided such excess is used, or is held for use, for 70606  
exempt purposes or to establish a reserve against future 70607  
contingencies; and, provided further, that such excess may not be 70608  
distributed to individual persons or to entities that would not be 70609  
entitled to the tax exemptions provided by this chapter. Nor shall 70610  
the fact that any scientific information diffused by the 70611  
organization is of particular interest or benefit to any of its 70612  
individual members be used to deny the exemption granted by this 70613  
section, provided that such scientific information is available to 70614  
the public for purchase or otherwise. 70615

(2) Division (D)(2) of this section does not apply to real 70616  
property exempted from taxation under this section and division 70617  
(A)(3) of section 5709.121 of the Revised Code and belonging to a 70618  
nonprofit corporation described in division (D)(1) of this section 70619  
that has received a grant under the Thomas Alva Edison grant 70620  
program authorized by division (C) of section 122.33 of the 70621  
Revised Code during any of the tax years the property was exempted 70622  
from taxation. 70623

When a private corporation described in division (D)(1) of 70624  
this section sells all or any portion of a tract, lot, or parcel 70625  
of real estate that has been exempt from taxation under this 70626  
section and section 5709.121 of the Revised Code, the portion sold 70627  
shall be restored to the tax list for the year following the year 70628

of the sale and, except in connection with a sale and transfer of 70629  
such a tract, lot, or parcel to a county land reutilization 70630  
corporation organized under Chapter 1724. of the Revised Code, a 70631  
charge shall be levied against the sold property in an amount 70632  
equal to the tax savings on such property during the four tax 70633  
years preceding the year the property is placed on the tax list. 70634  
The tax savings equals the amount of the additional taxes that 70635  
would have been levied if such property had not been exempt from 70636  
taxation. 70637

The charge constitutes a lien of the state upon such property 70638  
as of the first day of January of the tax year in which the charge 70639  
is levied and continues until discharged as provided by law. The 70640  
charge may also be remitted for all or any portion of such 70641  
property that the tax commissioner determines is entitled to 70642  
exemption from real property taxation for the year such property 70643  
is restored to the tax list under any provision of the Revised 70644  
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 70645  
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 70646  
upon an application for exemption covering the year such property 70647  
is restored to the tax list filed under section 5715.27 of the 70648  
Revised Code. 70649

(E) Real property held by an organization organized and 70650  
operated exclusively for charitable purposes as described under 70651  
section 501(c)(3) of the Internal Revenue Code and exempt from 70652  
federal taxation under section 501(a) of the Internal Revenue 70653  
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 70654  
of constructing or rehabilitating residences for eventual transfer 70655  
to qualified low-income families through sale, lease, or land 70656  
installment contract, shall be exempt from taxation. 70657

The exemption shall commence on the day title to the property 70658  
is transferred to the organization and shall continue to the end 70659  
of the tax year in which the organization transfers title to the 70660

property to a qualified low-income family. In no case shall the 70661  
exemption extend beyond the second succeeding tax year following 70662  
the year in which the title was transferred to the organization. 70663  
If the title is transferred to the organization and from the 70664  
organization to a qualified low-income family in the same tax 70665  
year, the exemption shall continue to the end of that tax year. 70666  
The proportionate amount of taxes that are a lien but not yet 70667  
determined, assessed, and levied for the tax year in which title 70668  
is transferred to the organization shall be remitted by the county 70669  
auditor for each day of the year that title is held by the 70670  
organization. 70671

Upon transferring the title to another person, the 70672  
organization shall file with the county auditor an affidavit 70673  
affirming that the title was transferred to a qualified low-income 70674  
family or that the title was not transferred to a qualified 70675  
low-income family, as the case may be; if the title was 70676  
transferred to a qualified low-income family, the affidavit shall 70677  
identify the transferee by name. If the organization transfers 70678  
title to the property to anyone other than a qualified low-income 70679  
family, the exemption, if it has not previously expired, shall 70680  
terminate, and the property shall be restored to the tax list for 70681  
the year following the year of the transfer and a charge shall be 70682  
levied against the property in an amount equal to the amount of 70683  
additional taxes that would have been levied if such property had 70684  
not been exempt from taxation. The charge constitutes a lien of 70685  
the state upon such property as of the first day of January of the 70686  
tax year in which the charge is levied and continues until 70687  
discharged as provided by law. 70688

The application for exemption shall be filed as otherwise 70689  
required under section 5715.27 of the Revised Code, except that 70690  
the organization holding the property shall file with its 70691  
application documentation substantiating its status as an 70692

organization organized and operated exclusively for charitable 70693  
purposes under section 501(c)(3) of the Internal Revenue Code and 70694  
its qualification for exemption from federal taxation under 70695  
section 501(a) of the Internal Revenue Code, and affirming its 70696  
intention to construct or rehabilitate the property for the 70697  
eventual transfer to qualified low-income families. 70698

As used in this division, "qualified low-income family" means 70699  
a family whose income does not exceed two hundred per cent of the 70700  
official federal poverty guidelines as revised annually in 70701  
accordance with section 673(2) of the "Omnibus Budget 70702  
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 70703  
amended, for a family size equal to the size of the family whose 70704  
income is being determined. 70705

(F) Real property held by a county land reutilization 70706  
corporation organized under Chapter 1724. of the Revised Code 70707  
shall be exempt from taxation. Notwithstanding section 5715.27 of 70708  
the Revised Code, a county land reutilization corporation is not 70709  
required to apply to any county or state agency in order to 70710  
qualify for the exemption. 70711

The exemption shall commence on the day title to the property 70712  
is transferred to the corporation and shall continue to the end of 70713  
the tax year in which the instrument transferring title from the 70714  
corporation to another owner is recorded, if the use to which the 70715  
other owner puts the property does not qualify for an exemption 70716  
under this section or any other section of the Revised Code. If 70717  
the title to the property is transferred to the corporation and 70718  
from the corporation in the same tax year, the exemption shall 70719  
continue to the end of that tax year. The proportionate amount of 70720  
taxes that are a lien but not yet determined, assessed, and levied 70721  
for the tax year in which title is transferred to the corporation 70722  
shall be remitted by the county auditor for each day of the year 70723  
that title is held by the corporation. 70724

Upon transferring the title to another person, the 70725  
corporation shall file with the county auditor an affidavit 70726  
affirming that the title was transferred to such other person and 70727  
shall identify the transferee by name. If the corporation 70728  
transfers title to the property to anyone that does not qualify or 70729  
the use to which the property is put does not qualify the property 70730  
for an exemption under this section or any other section of the 70731  
Revised Code, the exemption, if it has not previously expired, 70732  
shall terminate, and the property shall be restored to the tax 70733  
list for the year following the year of the transfer. A charge 70734  
shall be levied against the property in an amount equal to the 70735  
amount of additional taxes that would have been levied if such 70736  
property had not been exempt from taxation. The charge constitutes 70737  
a lien of the state upon such property as of the first day of 70738  
January of the tax year in which the charge is levied and 70739  
continues until discharged as provided by law. 70740

In lieu of the application for exemption otherwise required 70741  
to be filed as required under section 5715.27 of the Revised Code, 70742  
a count land reutilization corporation holding the property shall, 70743  
upon the request of any county or state agency, submit its 70744  
articles of incorporation substantiating its status as a county 70745  
land reutilization corporation. 70746

**Sec. 5709.121.** (A) Real property and tangible personal 70747  
property belonging to a charitable or educational institution or 70748  
to the state or a political subdivision, shall be considered as 70749  
used exclusively for charitable or public purposes by such 70750  
institution, the state, or political subdivision, if it meets one 70751  
of the following requirements: 70752

(1) It is used by such institution, the state, or political 70753  
subdivision, or by one or more other such institutions, the state, 70754  
or political subdivisions under a lease, sublease, or other 70755

contractual arrangement: 70756

(a) As a community or area center in which presentations in 70757  
music, dramatics, the arts, and related fields are made in order 70758  
to foster public interest and education therein; 70759

(b) For other charitable, educational, or public purposes. 70760

(2) It is made available under the direction or control of 70761  
such institution, the state, or political subdivision for use in 70762  
furtherance of or incidental to its charitable, educational, or 70763  
public purposes and not with the view to profit. 70764

(3) It is used by an organization described in division (D) 70765  
of section 5709.12 of the Revised Code. If the organization is a 70766  
corporation that receives a grant under the Thomas Alva Edison 70767  
grant program authorized by division (C) of section 122.33 of the 70768  
Revised Code at any time during the tax year, "used," for the 70769  
purposes of this division, includes holding property for lease or 70770  
resale to others. 70771

(B)(1) Property described in division (A)(1)(a) of this 70772  
section shall continue to be considered as used exclusively for 70773  
charitable or public purposes even if the property is conveyed 70774  
through one conveyance or a series of conveyances to an entity 70775  
that is not a charitable or educational institution and is not the 70776  
state or a political subdivision, provided that all of the 70777  
following conditions apply with respect to that property: 70778

(a) The property has been listed as exempt on the county 70779  
auditor's tax list and duplicate for the county in which it is 70780  
located for the ten tax years immediately preceding the year in 70781  
which the property is conveyed through one conveyance or a series 70782  
of conveyances; 70783

(b) The ~~owner to which the~~ property is conveyed through one 70784  
conveyance or a series of conveyances ~~leases~~ to an owner that does 70785  
any of the following: 70786

(i) Leases the property through one lease or a series of leases to the entity that owned or occupied the property for the ten tax years immediately preceding the year in which the property is conveyed or to an affiliate of ~~such prior owner or occupant~~ that entity;

(ii) Contracts to have renovations performed as described in division (B)(1)(d) of this section and is at least partially owned by a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of that code.

(c) The property includes improvements that are at least fifty years old;

(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law;

(e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and

(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure.

(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant.

(C) For purposes of this section, an institution that meets all of the following requirements is conclusively presumed to be a charitable institution:

(1) The institution is a nonprofit corporation or association, no part of the net earnings of which inures to the

benefit of any private shareholder or individual; 70817

(2) The institution is exempt from federal income taxation 70818  
under section 501(a) of the Internal Revenue Code; 70819

(3) The majority of the institution's board of directors are 70820  
appointed by the mayor or legislative authority of a municipal 70821  
corporation or a board of county commissioners, or a combination 70822  
thereof; 70823

(4) The primary purpose of the institution is to assist in 70824  
the development and revitalization of downtown urban areas. 70825

**Sec. 5709.212.** (A) With every application for an exempt 70826  
facility certificate filed pursuant to section 5709.21 of the 70827  
Revised Code, the applicant shall pay a fee equal to one-half of 70828  
one per cent of the total exempt facility project cost, not to 70829  
exceed two thousand dollars. One-half of the fee received with 70830  
applications for exempt facility certificates shall be credited to 70831  
the exempt facility administrative fund, which is hereby created 70832  
in the state treasury, for appropriation to the department of 70833  
taxation for use in administering sections 5709.20 to 5709.27 of 70834  
the Revised Code. If the director of environmental protection is 70835  
required to provide the opinion for an application, one-half of 70836  
the fee shall be credited to the non-Title V clean air fund 70837  
created in section 3704.035 of the Revised Code for use in 70838  
administering section 5709.211 of the Revised Code, unless the 70839  
application is for an industrial water pollution control facility. 70840  
If the application is for an industrial water pollution control 70841  
facility, one-half of the fee shall be credited to the surface 70842  
water protection fund created in section 6111.038 of the Revised 70843  
Code for use in administering section 5709.211 of the Revised 70844  
Code. If the director of development is required to provide the 70845  
opinion for an application, one-half of the fee for each exempt 70846  
facility application shall be credited to the exempt facility 70847

inspection fund, which is hereby created in the state treasury, 70848  
for appropriation to the department of development for use in 70849  
administering section 5709.211 of the Revised Code. 70850

An applicant is not entitled to any tax exemption under 70851  
section 5709.25 of the Revised Code until the fee required by this 70852  
section is paid. The fee required by this section is not 70853  
refundable, and is due with the application for an exempt facility 70854  
certificate even if an exempt facility certificate ultimately is 70855  
not issued or is withdrawn. Any application submitted without 70856  
payment of the fee shall be deemed incomplete until the fee is 70857  
paid. 70858

(B) The application fee imposed under division (A) of this 70859  
section for a jointly owned facility shall be equal to one-half of 70860  
one per cent of the total exempt facility project cost, not to 70861  
exceed two thousand dollars for each facility that is the subject 70862  
of the application. 70863

**Sec. 5709.43.** (A) A municipal corporation that grants a tax 70864  
exemption under section 5709.40 of the Revised Code shall 70865  
establish a municipal public improvement tax increment equivalent 70866  
fund into which shall be deposited service payments in lieu of 70867  
taxes distributed to the municipal corporation under section 70868  
5709.42 of the Revised Code. If the legislative authority of the 70869  
municipal corporation has adopted an ordinance under division (C) 70870  
of section 5709.40 of the Revised Code, the municipal corporation 70871  
shall establish at least one account in that fund with respect to 70872  
ordinances adopted under division (B) of that section, and one 70873  
account with respect to each incentive district created in an 70874  
ordinance adopted under division (C) of that section. If an 70875  
ordinance adopted under division (C) of section 5709.40 of the 70876  
Revised Code also authorizes the use of service payments for 70877  
housing renovations within the district, the municipal corporation 70878

shall establish separate accounts for the service payments 70879  
designated for public infrastructure improvements and for the 70880  
service payments authorized for the purpose of housing 70881  
renovations. Money in an account of the municipal public 70882  
improvement tax increment equivalent fund shall be used to finance 70883  
the public infrastructure improvements designated in, or the 70884  
housing renovations authorized by, the ordinance with respect to 70885  
which the account is established; in the case of an account 70886  
established with respect to an ordinance adopted under division 70887  
(C) of that section, money in the account shall be used to finance 70888  
the public infrastructure improvements designated, or the housing 70889  
renovations authorized, for each incentive district created in the 70890  
ordinance. Money in an account shall not be used to finance or 70891  
support housing renovations that take place after the incentive 70892  
district has expired. The municipal corporation also may deposit 70893  
into any of those accounts municipal income tax revenue that has 70894  
been designated by ordinance to finance the public infrastructure 70895  
improvements and housing renovations. 70896

(B) A municipal corporation may establish an urban 70897  
redevelopment tax increment equivalent fund, by resolution or 70898  
ordinance of its legislative authority, into which shall be 70899  
deposited service payments in lieu of taxes distributed to the 70900  
municipal corporation by the county treasurer as provided in 70901  
section 5709.42 of the Revised Code for improvements exempt from 70902  
taxation pursuant to an ordinance adopted under section 5709.41 of 70903  
the Revised Code. Moneys deposited in the urban redevelopment tax 70904  
increment equivalent fund shall be used for such purposes as are 70905  
authorized in the resolution or ordinance establishing the fund. 70906  
The municipal corporation also may deposit into the urban 70907  
redevelopment tax increment equivalent fund municipal income tax 70908  
revenue that has been dedicated to fund any of the purposes for 70909  
which the fund is established. 70910

(C)(1)(a) A municipal corporation may distribute money in the 70911  
municipal public improvement tax increment equivalent fund or the 70912  
urban redevelopment tax increment equivalent fund to any school 70913  
district in which the exempt property is located, in an amount not 70914  
to exceed the amount of real property taxes that such school 70915  
district would have received from the improvement if it were not 70916  
exempt from taxation, or use money in either or both funds to 70917  
finance specific public improvements benefiting the school 70918  
district. The resolution or ordinance establishing the fund shall 70919  
set forth the percentage of such maximum amount that will be 70920  
distributed to any affected school district or used to finance 70921  
specific public improvements benefiting the school district. 70922

(b) A municipal corporation also may distribute money in the 70923  
municipal public improvement tax increment equivalent fund or the 70924  
urban redevelopment tax increment equivalent fund as follows: 70925

(i) To a board of county commissioners, in the amount that is 70926  
owed to the board pursuant to division (E) of section 5709.40 of 70927  
the Revised Code; 70928

(ii) To a county in accordance with section 5709.913 of the 70929  
Revised Code. 70930

(2) Money from an account in a municipal public improvement 70931  
tax increment equivalent fund or from an urban redevelopment tax 70932  
increment equivalent fund may be distributed under division 70933  
(C)(1)(b) of this section, regardless of the date a resolution or 70934  
an ordinance was adopted under section 5709.40 or 5709.41 of the 70935  
Revised Code that prompted the establishment of the account or the 70936  
establishment of the urban redevelopment tax increment equivalent 70937  
fund, even if the resolution or ordinance was adopted prior to ~~the~~ 70938  
~~effective date of this amendment~~ March 30, 2006. 70939

(D)(1) A municipal corporation may use surplus money in the 70940  
municipal public improvement tax increment equivalent fund or an 70941

account of that fund, or in the urban redevelopment tax increment 70942  
equivalent fund, to repay a loan or provide matching funds for a 70943  
grant awarded to the municipal corporation under the local 70944  
government innovation program created in section 189.02 of the 70945  
Revised Code. 70946

(2) Any incidental surplus remaining in the municipal public 70947  
improvement tax increment equivalent fund or an account of that 70948  
fund, or in the urban redevelopment tax increment equivalent fund, 70949  
upon dissolution of the account or fund shall be used as provided 70950  
in division (D)(1) of this section or transferred to the general 70951  
fund of the municipal corporation. 70952

**Sec. 5709.62.** (A) In any municipal corporation that is 70953  
defined by the United States office of management and budget as a 70954  
principal city of a metropolitan statistical area, the legislative 70955  
authority of the municipal corporation may designate one or more 70956  
areas within its municipal corporation as proposed enterprise 70957  
zones. Upon designating an area, the legislative authority shall 70958  
petition the director of development for certification of the area 70959  
as having the characteristics set forth in division (A)(1) of 70960  
section 5709.61 of the Revised Code as amended by Substitute 70961  
Senate Bill No. 19 of the 120th general assembly. Except as 70962  
otherwise provided in division (E) of this section, on and after 70963  
July 1, 1994, legislative authorities shall not enter into 70964  
agreements under this section unless the legislative authority has 70965  
petitioned the director and the director has certified the zone 70966  
under this section as amended by that act; however, all agreements 70967  
entered into under this section as it existed prior to July 1, 70968  
1994, and the incentives granted under those agreements shall 70969  
remain in effect for the period agreed to under those agreements. 70970  
Within sixty days after receiving such a petition, the director 70971  
shall determine whether the area has the characteristics set forth 70972  
in division (A)(1) of section 5709.61 of the Revised Code, and 70973

shall forward the findings to the legislative authority of the 70974  
municipal corporation. If the director certifies the area as 70975  
having those characteristics, and thereby certifies it as a zone, 70976  
the legislative authority may enter into an agreement with an 70977  
enterprise under division (C) of this section. 70978

(B) Any enterprise that wishes to enter into an agreement 70979  
with a municipal corporation under division (C) of this section 70980  
shall submit a proposal to the legislative authority of the 70981  
municipal corporation on a form prescribed by the director of 70982  
development, together with the application fee established under 70983  
section 5709.68 of the Revised Code. The form shall require the 70984  
following information: 70985

(1) An estimate of the number of new employees whom the 70986  
enterprise intends to hire, or of the number of employees whom the 70987  
enterprise intends to retain, within the zone at a facility that 70988  
is a project site, and an estimate of the amount of payroll of the 70989  
enterprise attributable to these employees; 70990

(2) An estimate of the amount to be invested by the 70991  
enterprise to establish, expand, renovate, or occupy a facility, 70992  
including investment in new buildings, additions or improvements 70993  
to existing buildings, machinery, equipment, furniture, fixtures, 70994  
and inventory; 70995

(3) A listing of the enterprise's current investment, if any, 70996  
in a facility as of the date of the proposal's submission. 70997

The enterprise shall review and update the listings required 70998  
under this division to reflect material changes, and any agreement 70999  
entered into under division (C) of this section shall set forth 71000  
final estimates and listings as of the time the agreement is 71001  
entered into. The legislative authority may, on a separate form 71002  
and at any time, require any additional information necessary to 71003  
determine whether an enterprise is in compliance with an agreement 71004

and to collect the information required to be reported under 71005  
section 5709.68 of the Revised Code. 71006

(C) Upon receipt and investigation of a proposal under 71007  
division (B) of this section, if the legislative authority finds 71008  
that the enterprise submitting the proposal is qualified by 71009  
financial responsibility and business experience to create and 71010  
preserve employment opportunities in the zone and improve the 71011  
economic climate of the municipal corporation, the legislative 71012  
authority, on or before October 15, ~~2012~~ 2013, may do one of the 71013  
following: 71014

(1) Enter into an agreement with the enterprise under which 71015  
the enterprise agrees to establish, expand, renovate, or occupy a 71016  
facility and hire new employees, or preserve employment 71017  
opportunities for existing employees, in return for one or more of 71018  
the following incentives: 71019

(a) Exemption for a specified number of years, not to exceed 71020  
fifteen, of a specified portion, up to seventy-five per cent, of 71021  
the assessed value of tangible personal property first used in 71022  
business at the project site as a result of the agreement. If an 71023  
exemption for inventory is specifically granted in the agreement 71024  
pursuant to this division, the exemption applies to inventory 71025  
required to be listed pursuant to sections 5711.15 and 5711.16 of 71026  
the Revised Code, except that, in the instance of an expansion or 71027  
other situations in which an enterprise was in business at the 71028  
facility prior to the establishment of the zone, the inventory 71029  
that is exempt is that amount or value of inventory in excess of 71030  
the amount or value of inventory required to be listed in the 71031  
personal property tax return of the enterprise in the return for 71032  
the tax year in which the agreement is entered into. 71033

(b) Exemption for a specified number of years, not to exceed 71034  
fifteen, of a specified portion, up to seventy-five per cent, of 71035  
the increase in the assessed valuation of real property 71036

constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to

exceed fifteen, of a specified portion, up to one hundred per 71068  
cent, of the assessed value of tangible personal property used in 71069  
business at the project site as a result of the agreement, or of 71070  
the assessed valuation of real property constituting the project 71071  
site, or both. 71072

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 71073  
section, the portion of the assessed value of tangible personal 71074  
property or of the increase in the assessed valuation of real 71075  
property exempted from taxation under those divisions may exceed 71076  
seventy-five per cent in any year for which that portion is 71077  
exempted if the average percentage exempted for all years in which 71078  
the agreement is in effect does not exceed sixty per cent, or if 71079  
the board of education of the city, local, or exempted village 71080  
school district within the territory of which the property is or 71081  
will be located approves a percentage in excess of seventy-five 71082  
per cent. 71083

(2) Notwithstanding any provision of the Revised Code to the 71084  
contrary, the exemptions described in divisions (C)(1)(a), (b), 71085  
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 71086  
be for up to fifteen years if the board of education of the city, 71087  
local, or exempted village school district within the territory of 71088  
which the property is or will be located approves a number of 71089  
years in excess of ten. 71090

(3) For the purpose of obtaining the approval of a city, 71091  
local, or exempted village school district under division (D)(1) 71092  
or (2) of this section, the legislative authority shall deliver to 71093  
the board of education a notice not later than forty-five days 71094  
prior to approving the agreement, excluding Saturdays, Sundays, 71095  
and legal holidays as defined in section 1.14 of the Revised Code. 71096  
The notice shall state the percentage to be exempted, an estimate 71097  
of the true value of the property to be exempted, and the number 71098  
of years the property is to be exempted. The board of education, 71099

by resolution adopted by a majority of the board, shall approve or 71100  
disapprove the agreement and certify a copy of the resolution to 71101  
the legislative authority not later than fourteen days prior to 71102  
the date stipulated by the legislative authority as the date upon 71103  
which approval of the agreement is to be formally considered by 71104  
the legislative authority. The board of education may include in 71105  
the resolution conditions under which the board would approve the 71106  
agreement, including the execution of an agreement to compensate 71107  
the school district under division (B) of section 5709.82 of the 71108  
Revised Code. The legislative authority may approve the agreement 71109  
at any time after the board of education certifies its resolution 71110  
approving the agreement to the legislative authority, or, if the 71111  
board approves the agreement conditionally, at any time after the 71112  
conditions are agreed to by the board and the legislative 71113  
authority. 71114

If a board of education has adopted a resolution waiving its 71115  
right to approve agreements and the resolution remains in effect, 71116  
approval of an agreement by the board is not required under this 71117  
division. If a board of education has adopted a resolution 71118  
allowing a legislative authority to deliver the notice required 71119  
under this division fewer than forty-five business days prior to 71120  
the legislative authority's approval of the agreement, the 71121  
legislative authority shall deliver the notice to the board not 71122  
later than the number of days prior to such approval as prescribed 71123  
by the board in its resolution. If a board of education adopts a 71124  
resolution waiving its right to approve agreements or shortening 71125  
the notification period, the board shall certify a copy of the 71126  
resolution to the legislative authority. If the board of education 71127  
rescinds such a resolution, it shall certify notice of the 71128  
rescission to the legislative authority. 71129

(4) The legislative authority shall comply with section 71130  
5709.83 of the Revised Code unless the board of education has 71131

adopted a resolution under that section waiving its right to 71132  
receive such notice. 71133

(E) This division applies to zones certified by the director 71134  
of development under this section prior to July 22, 1994. 71135

On or before October 15, ~~2012~~ 2013, the legislative authority 71136  
that designated a zone to which this division applies may enter 71137  
into an agreement with an enterprise if the legislative authority 71138  
finds that the enterprise satisfies one of the criteria described 71139  
in divisions (E)(1) to (5) of this section: 71140

(1) The enterprise currently has no operations in this state 71141  
and, subject to approval of the agreement, intends to establish 71142  
operations in the zone; 71143

(2) The enterprise currently has operations in this state 71144  
and, subject to approval of the agreement, intends to establish 71145  
operations at a new location in the zone that would not result in 71146  
a reduction in the number of employee positions at any of the 71147  
enterprise's other locations in this state; 71148

(3) The enterprise, subject to approval of the agreement, 71149  
intends to relocate operations, currently located in another 71150  
state, to the zone; 71151

(4) The enterprise, subject to approval of the agreement, 71152  
intends to expand operations at an existing site in the zone that 71153  
the enterprise currently operates; 71154

(5) The enterprise, subject to approval of the agreement, 71155  
intends to relocate operations, currently located in this state, 71156  
to the zone, and the director of development has issued a waiver 71157  
for the enterprise under division (B) of section 5709.633 of the 71158  
Revised Code. 71159

The agreement shall require the enterprise to agree to 71160  
establish, expand, renovate, or occupy a facility in the zone and 71161

hire new employees, or preserve employment opportunities for 71162  
existing employees, in return for one or more of the incentives 71163  
described in division (C) of this section. 71164

(F) All agreements entered into under this section shall be 71165  
in the form prescribed under section 5709.631 of the Revised Code. 71166  
After an agreement is entered into under this section, if the 71167  
legislative authority revokes its designation of a zone, or if the 71168  
director of development revokes a zone's certification, any 71169  
entitlements granted under the agreement shall continue for the 71170  
number of years specified in the agreement. 71171

(G) Except as otherwise provided in this division, an 71172  
agreement entered into under this section shall require that the 71173  
enterprise pay an annual fee equal to the greater of one per cent 71174  
of the dollar value of incentives offered under the agreement or 71175  
five hundred dollars; provided, however, that if the value of the 71176  
incentives exceeds two hundred fifty thousand dollars, the fee 71177  
shall not exceed two thousand five hundred dollars. The fee shall 71178  
be payable to the legislative authority once per year for each 71179  
year the agreement is effective on the days and in the form 71180  
specified in the agreement. Fees paid shall be deposited in a 71181  
special fund created for such purpose by the legislative authority 71182  
and shall be used by the legislative authority exclusively for the 71183  
purpose of complying with section 5709.68 of the Revised Code and 71184  
by the tax incentive review council created under section 5709.85 71185  
of the Revised Code exclusively for the purposes of performing the 71186  
duties prescribed under that section. The legislative authority 71187  
may waive or reduce the amount of the fee charged against an 71188  
enterprise, but such a waiver or reduction does not affect the 71189  
obligations of the legislative authority or the tax incentive 71190  
review council to comply with section 5709.68 or 5709.85 of the 71191  
Revised Code. 71192

(H) When an agreement is entered into pursuant to this 71193

section, the legislative authority authorizing the agreement shall 71194  
forward a copy of the agreement to the director of development and 71195  
to the tax commissioner within fifteen days after the agreement is 71196  
entered into. If any agreement includes terms not provided for in 71197  
section 5709.631 of the Revised Code affecting the revenue of a 71198  
city, local, or exempted village school district or causing 71199  
revenue to be forgone by the district, including any compensation 71200  
to be paid to the school district pursuant to section 5709.82 of 71201  
the Revised Code, those terms also shall be forwarded in writing 71202  
to the director of development along with the copy of the 71203  
agreement forwarded under this division. 71204

(I) After an agreement is entered into, the enterprise shall 71205  
file with each personal property tax return required to be filed, 71206  
or annual report required to be filed under section 5727.08 of the 71207  
Revised Code, while the agreement is in effect, an informational 71208  
return, on a form prescribed by the tax commissioner for that 71209  
purpose, setting forth separately the property, and related costs 71210  
and values, exempted from taxation under the agreement. 71211

(J) Enterprises may agree to give preference to residents of 71212  
the zone within which the agreement applies relative to residents 71213  
of this state who do not reside in the zone when hiring new 71214  
employees under the agreement. 71215

(K) An agreement entered into under this section may include 71216  
a provision requiring the enterprise to create one or more 71217  
temporary internship positions for students enrolled in a course 71218  
of study at a school or other educational institution in the 71219  
vicinity, and to create a scholarship or provide another form of 71220  
educational financial assistance for students holding such a 71221  
position in exchange for the student's commitment to work for the 71222  
enterprise at the completion of the internship. 71223

(L) The tax commissioner's authority in determining the 71224  
accuracy of any exemption granted by an agreement entered into 71225

under this section is limited to divisions (C)(1)(a) and (b), 71226  
(C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and 71227  
divisions (B)(1) to (10) of section 5709.631 of the Revised Code 71228  
and, as authorized by law, to enforcing any modification to, or 71229  
revocation of, that agreement by the legislative authority of a 71230  
municipal corporation or the director of development. 71231

**Sec. 5709.63.** (A) With the consent of the legislative 71232  
authority of each affected municipal corporation or of a board of 71233  
township trustees, a board of county commissioners may, in the 71234  
manner set forth in section 5709.62 of the Revised Code, designate 71235  
one or more areas in one or more municipal corporations or in 71236  
unincorporated areas of the county as proposed enterprise zones. A 71237  
board of county commissioners may designate no more than one area 71238  
within a township, or within adjacent townships, as a proposed 71239  
enterprise zone. The board shall petition the director of 71240  
development for certification of the area as having the 71241  
characteristics set forth in division (A)(1) or (2) of section 71242  
5709.61 of the Revised Code as amended by Substitute Senate Bill 71243  
No. 19 of the 120th general assembly. Except as otherwise provided 71244  
in division (D) of this section, on and after July 1, 1994, boards 71245  
of county commissioners shall not enter into agreements under this 71246  
section unless the board has petitioned the director and the 71247  
director has certified the zone under this section as amended by 71248  
that act; however, all agreements entered into under this section 71249  
as it existed prior to July 1, 1994, and the incentives granted 71250  
under those agreements shall remain in effect for the period 71251  
agreed to under those agreements. The director shall make the 71252  
determination in the manner provided under section 5709.62 of the 71253  
Revised Code. 71254

Any enterprise wishing to enter into an agreement with the 71255  
board under division (B) or (D) of this section shall submit a 71256  
proposal to the board on the form and accompanied by the 71257

application fee prescribed under division (B) of section 5709.62 71258  
of the Revised Code. The enterprise shall review and update the 71259  
estimates and listings required by the form in the manner required 71260  
under that division. The board may, on a separate form and at any 71261  
time, require any additional information necessary to determine 71262  
whether an enterprise is in compliance with an agreement and to 71263  
collect the information required to be reported under section 71264  
5709.68 of the Revised Code. 71265

(B) If the board of county commissioners finds that an 71266  
enterprise submitting a proposal is qualified by financial 71267  
responsibility and business experience to create and preserve 71268  
employment opportunities in the zone and to improve the economic 71269  
climate of the municipal corporation or municipal corporations or 71270  
the unincorporated areas in which the zone is located and to which 71271  
the proposal applies, the board, on or before October 15, ~~2012~~ 71272  
2013, and with the consent of the legislative authority of each 71273  
affected municipal corporation or of the board of township 71274  
trustees may do either of the following: 71275

(1) Enter into an agreement with the enterprise under which 71276  
the enterprise agrees to establish, expand, renovate, or occupy a 71277  
facility in the zone and hire new employees, or preserve 71278  
employment opportunities for existing employees, in return for the 71279  
following incentives: 71280

(a) When the facility is located in a municipal corporation, 71281  
the board may enter into an agreement for one or more of the 71282  
incentives provided in division (C) of section 5709.62 of the 71283  
Revised Code, subject to division (D) of that section; 71284

(b) When the facility is located in an unincorporated area, 71285  
the board may enter into an agreement for one or more of the 71286  
following incentives: 71287

(i) Exemption for a specified number of years, not to exceed 71288

fifteen, of a specified portion, up to sixty per cent, of the 71289  
assessed value of tangible personal property first used in 71290  
business at a project site as a result of the agreement. If an 71291  
exemption for inventory is specifically granted in the agreement 71292  
pursuant to this division, the exemption applies to inventory 71293  
required to be listed pursuant to sections 5711.15 and 5711.16 of 71294  
the Revised Code, except, in the instance of an expansion or other 71295  
situations in which an enterprise was in business at the facility 71296  
prior to the establishment of the zone, the inventory that is 71297  
exempt is that amount or value of inventory in excess of the 71298  
amount or value of inventory required to be listed in the personal 71299  
property tax return of the enterprise in the return for the tax 71300  
year in which the agreement is entered into. 71301

(ii) Exemption for a specified number of years, not to exceed 71302  
fifteen, of a specified portion, up to sixty per cent, of the 71303  
increase in the assessed valuation of real property constituting 71304  
the project site subsequent to formal approval of the agreement by 71305  
the board; 71306

(iii) Provision for a specified number of years, not to 71307  
exceed fifteen, of any optional services or assistance the board 71308  
is authorized to provide with regard to the project site; 71309

(iv) The incentive described in division (C)(2) of section 71310  
5709.62 of the Revised Code. 71311

(2) Enter into an agreement with an enterprise that plans to 71312  
purchase and operate a large manufacturing facility that has 71313  
ceased operation or has announced its intention to cease 71314  
operation, in return for exemption for a specified number of 71315  
years, not to exceed fifteen, of a specified portion, up to one 71316  
hundred per cent, of tangible personal property used in business 71317  
at the project site as a result of the agreement, or of real 71318  
property constituting the project site, or both. 71319

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 71320  
this section, the portion of the assessed value of tangible 71321  
personal property or of the increase in the assessed valuation of 71322  
real property exempted from taxation under those divisions may 71323  
exceed sixty per cent in any year for which that portion is 71324  
exempted if the average percentage exempted for all years in which 71325  
the agreement is in effect does not exceed fifty per cent, or if 71326  
the board of education of the city, local, or exempted village 71327  
school district within the territory of which the property is or 71328  
will be located approves a percentage in excess of sixty per cent. 71329

(b) Notwithstanding any provision of the Revised Code to the 71330  
contrary, the exemptions described in divisions (B)(1)(b)(i), 71331  
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 71332  
fifteen years if the board of education of the city, local, or 71333  
exempted village school district within the territory of which the 71334  
property is or will be located approves a number of years in 71335  
excess of ten. 71336

(c) For the purpose of obtaining the approval of a city, 71337  
local, or exempted village school district under division 71338  
(C)(1)(a) or (b) of this section, the board of county 71339  
commissioners shall deliver to the board of education a notice not 71340  
later than forty-five days prior to approving the agreement, 71341  
excluding Saturdays, Sundays, and legal holidays as defined in 71342  
section 1.14 of the Revised Code. The notice shall state the 71343  
percentage to be exempted, an estimate of the true value of the 71344  
property to be exempted, and the number of years the property is 71345  
to be exempted. The board of education, by resolution adopted by a 71346  
majority of the board, shall approve or disapprove the agreement 71347  
and certify a copy of the resolution to the board of county 71348  
commissioners not later than fourteen days prior to the date 71349  
stipulated by the board of county commissioners as the date upon 71350  
which approval of the agreement is to be formally considered by 71351

the board of county commissioners. The board of education may 71352  
include in the resolution conditions under which the board would 71353  
approve the agreement, including the execution of an agreement to 71354  
compensate the school district under division (B) of section 71355  
5709.82 of the Revised Code. The board of county commissioners may 71356  
approve the agreement at any time after the board of education 71357  
certifies its resolution approving the agreement to the board of 71358  
county commissioners, or, if the board of education approves the 71359  
agreement conditionally, at any time after the conditions are 71360  
agreed to by the board of education and the board of county 71361  
commissioners. 71362

If a board of education has adopted a resolution waiving its 71363  
right to approve agreements and the resolution remains in effect, 71364  
approval of an agreement by the board of education is not required 71365  
under division (C) of this section. If a board of education has 71366  
adopted a resolution allowing a board of county commissioners to 71367  
deliver the notice required under this division fewer than 71368  
forty-five business days prior to approval of the agreement by the 71369  
board of county commissioners, the board of county commissioners 71370  
shall deliver the notice to the board of education not later than 71371  
the number of days prior to such approval as prescribed by the 71372  
board of education in its resolution. If a board of education 71373  
adopts a resolution waiving its right to approve agreements or 71374  
shortening the notification period, the board of education shall 71375  
certify a copy of the resolution to the board of county 71376  
commissioners. If the board of education rescinds such a 71377  
resolution, it shall certify notice of the rescission to the board 71378  
of county commissioners. 71379

(2) The board of county commissioners shall comply with 71380  
section 5709.83 of the Revised Code unless the board of education 71381  
has adopted a resolution under that section waiving its right to 71382  
receive such notice. 71383

(D) This division applies to zones certified by the director 71384  
of development under this section prior to July 22, 1994. 71385

On or before October 15, ~~2012~~ 2013, and with the consent of 71386  
the legislative authority of each affected municipal corporation 71387  
or board of township trustees of each affected township, the board 71388  
of county commissioners that designated a zone to which this 71389  
division applies may enter into an agreement with an enterprise if 71390  
the board finds that the enterprise satisfies one of the criteria 71391  
described in divisions (D)(1) to (5) of this section: 71392

(1) The enterprise currently has no operations in this state 71393  
and, subject to approval of the agreement, intends to establish 71394  
operations in the zone; 71395

(2) The enterprise currently has operations in this state 71396  
and, subject to approval of the agreement, intends to establish 71397  
operations at a new location in the zone that would not result in 71398  
a reduction in the number of employee positions at any of the 71399  
enterprise's other locations in this state; 71400

(3) The enterprise, subject to approval of the agreement, 71401  
intends to relocate operations, currently located in another 71402  
state, to the zone; 71403

(4) The enterprise, subject to approval of the agreement, 71404  
intends to expand operations at an existing site in the zone that 71405  
the enterprise currently operates; 71406

(5) The enterprise, subject to approval of the agreement, 71407  
intends to relocate operations, currently located in this state, 71408  
to the zone, and the director of development has issued a waiver 71409  
for the enterprise under division (B) of section 5709.633 of the 71410  
Revised Code. 71411

The agreement shall require the enterprise to agree to 71412  
establish, expand, renovate, or occupy a facility in the zone and 71413  
hire new employees, or preserve employment opportunities for 71414

existing employees, in return for one or more of the incentives 71415  
described in division (B) of this section. 71416

(E) All agreements entered into under this section shall be 71417  
in the form prescribed under section 5709.631 of the Revised Code. 71418  
After an agreement under this section is entered into, if the 71419  
board of county commissioners revokes its designation of a zone, 71420  
or if the director of development revokes a zone's certification, 71421  
any entitlements granted under the agreement shall continue for 71422  
the number of years specified in the agreement. 71423

(F) Except as otherwise provided in this division, an 71424  
agreement entered into under this section shall require that the 71425  
enterprise pay an annual fee equal to the greater of one per cent 71426  
of the dollar value of incentives offered under the agreement or 71427  
five hundred dollars; provided, however, that if the value of the 71428  
incentives exceeds two hundred fifty thousand dollars, the fee 71429  
shall not exceed two thousand five hundred dollars. The fee shall 71430  
be payable to the board of county commissioners once per year for 71431  
each year the agreement is effective on the days and in the form 71432  
specified in the agreement. Fees paid shall be deposited in a 71433  
special fund created for such purpose by the board and shall be 71434  
used by the board exclusively for the purpose of complying with 71435  
section 5709.68 of the Revised Code and by the tax incentive 71436  
review council created under section 5709.85 of the Revised Code 71437  
exclusively for the purposes of performing the duties prescribed 71438  
under that section. The board may waive or reduce the amount of 71439  
the fee charged against an enterprise, but such waiver or 71440  
reduction does not affect the obligations of the board or the tax 71441  
incentive review council to comply with section 5709.68 or 5709.85 71442  
of the Revised Code, respectively. 71443

(G) With the approval of the legislative authority of a 71444  
municipal corporation or the board of township trustees of a 71445  
township in which a zone is designated under division (A) of this 71446

section, the board of county commissioners may delegate to that 71447  
legislative authority or board any powers and duties of the board 71448  
of county commissioners to negotiate and administer agreements 71449  
with regard to that zone under this section. 71450

(H) When an agreement is entered into pursuant to this 71451  
section, the board of county commissioners authorizing the 71452  
agreement or the legislative authority or board of township 71453  
trustees that negotiates and administers the agreement shall 71454  
forward a copy of the agreement to the director of development and 71455  
to the tax commissioner within fifteen days after the agreement is 71456  
entered into. If any agreement includes terms not provided for in 71457  
section 5709.631 of the Revised Code affecting the revenue of a 71458  
city, local, or exempted village school district or causing 71459  
revenue to be foregone by the district, including any compensation 71460  
to be paid to the school district pursuant to section 5709.82 of 71461  
the Revised Code, those terms also shall be forwarded in writing 71462  
to the director of development along with the copy of the 71463  
agreement forwarded under this division. 71464

(I) After an agreement is entered into, the enterprise shall 71465  
file with each personal property tax return required to be filed, 71466  
or annual report that is required to be filed under section 71467  
5727.08 of the Revised Code, while the agreement is in effect, an 71468  
informational return, on a form prescribed by the tax commissioner 71469  
for that purpose, setting forth separately the property, and 71470  
related costs and values, exempted from taxation under the 71471  
agreement. 71472

(J) Enterprises may agree to give preference to residents of 71473  
the zone within which the agreement applies relative to residents 71474  
of this state who do not reside in the zone when hiring new 71475  
employees under the agreement. 71476

(K) An agreement entered into under this section may include 71477  
a provision requiring the enterprise to create one or more 71478

temporary internship positions for students enrolled in a course 71479  
of study at a school or other educational institution in the 71480  
vicinity, and to create a scholarship or provide another form of 71481  
educational financial assistance for students holding such a 71482  
position in exchange for the student's commitment to work for the 71483  
enterprise at the completion of the internship. 71484

(L) The tax commissioner's authority in determining the 71485  
accuracy of any exemption granted by an agreement entered into 71486  
under this section is limited to divisions (B)(1)(b)(i) and (ii), 71487  
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 71488  
this section as it pertains to divisions (C)(2)(a), (b), and (c) 71489  
of section 5709.62 of the Revised Code, and divisions (B)(1) to 71490  
(10) of section 5709.631 of the Revised Code and, as authorized by 71491  
law, to enforcing any modification to, or revocation of, that 71492  
agreement by the board of county commissioners or the director of 71493  
development or, if the board's powers and duties are delegated 71494  
under division (G) of this section, by the legislative authority 71495  
of a municipal corporation or board of township trustees. 71496

**Sec. 5709.632.** (A)(1) The legislative authority of a 71497  
municipal corporation defined by the United States office of 71498  
management and budget as a principal city of a metropolitan 71499  
statistical area may, in the manner set forth in section 5709.62 71500  
of the Revised Code, designate one or more areas in the municipal 71501  
corporation as a proposed enterprise zone. 71502

(2) With the consent of the legislative authority of each 71503  
affected municipal corporation or of a board of township trustees, 71504  
a board of county commissioners may, in the manner set forth in 71505  
section 5709.62 of the Revised Code, designate one or more areas 71506  
in one or more municipal corporations or in unincorporated areas 71507  
of the county as proposed urban jobs and enterprise zones, except 71508  
that a board of county commissioners may designate no more than 71509

one area within a township, or within adjacent townships, as a 71510  
proposed urban jobs and enterprise zone. 71511

(3) The legislative authority or board of county 71512  
commissioners may petition the director of development for 71513  
certification of the area as having the characteristics set forth 71514  
in division (A)(3) of section 5709.61 of the Revised Code. Within 71515  
sixty days after receiving such a petition, the director shall 71516  
determine whether the area has the characteristics set forth in 71517  
that division and forward the findings to the legislative 71518  
authority or board of county commissioners. If the director 71519  
certifies the area as having those characteristics and thereby 71520  
certifies it as a zone, the legislative authority or board may 71521  
enter into agreements with enterprises under division (B) of this 71522  
section. Any enterprise wishing to enter into an agreement with a 71523  
legislative authority or board of county commissioners under this 71524  
section and satisfying one of the criteria described in divisions 71525  
(B)(1) to (5) of this section shall submit a proposal to the 71526  
legislative authority or board on the form prescribed under 71527  
division (B) of section 5709.62 of the Revised Code and shall 71528  
review and update the estimates and listings required by the form 71529  
in the manner required under that division. The legislative 71530  
authority or board may, on a separate form and at any time, 71531  
require any additional information necessary to determine whether 71532  
an enterprise is in compliance with an agreement and to collect 71533  
the information required to be reported under section 5709.68 of 71534  
the Revised Code. 71535

(B) Prior to entering into an agreement with an enterprise, 71536  
the legislative authority or board of county commissioners shall 71537  
determine whether the enterprise submitting the proposal is 71538  
qualified by financial responsibility and business experience to 71539  
create and preserve employment opportunities in the zone and to 71540  
improve the economic climate of the municipal corporation or 71541

municipal corporations or the unincorporated areas in which the 71542  
zone is located and to which the proposal applies, and whether the 71543  
enterprise satisfies one of the following criteria: 71544

(1) The enterprise currently has no operations in this state 71545  
and, subject to approval of the agreement, intends to establish 71546  
operations in the zone; 71547

(2) The enterprise currently has operations in this state 71548  
and, subject to approval of the agreement, intends to establish 71549  
operations at a new location in the zone that would not result in 71550  
a reduction in the number of employee positions at any of the 71551  
enterprise's other locations in this state; 71552

(3) The enterprise, subject to approval of the agreement, 71553  
intends to relocate operations, currently located in another 71554  
state, to the zone; 71555

(4) The enterprise, subject to approval of the agreement, 71556  
intends to expand operations at an existing site in the zone that 71557  
the enterprise currently operates; 71558

(5) The enterprise, subject to approval of the agreement, 71559  
intends to relocate operations, currently located in this state, 71560  
to the zone, and the director of development has issued a waiver 71561  
for the enterprise under division (B) of section 5709.633 of the 71562  
Revised Code. 71563

(C) If the legislative authority or board determines that the 71564  
enterprise is so qualified and satisfies one of the criteria 71565  
described in divisions (B)(1) to (5) of this section, the 71566  
legislative authority or board may, after complying with section 71567  
5709.83 of the Revised Code and on or before October 15, ~~2012~~ 71568  
2013, and, in the case of a board of commissioners, with the 71569  
consent of the legislative authority of each affected municipal 71570  
corporation or of the board of township trustees, enter into an 71571  
agreement with the enterprise under which the enterprise agrees to 71572

establish, expand, renovate, or occupy a facility in the zone and 71573  
hire new employees, or preserve employment opportunities for 71574  
existing employees, in return for the following incentives: 71575

(1) When the facility is located in a municipal corporation, 71576  
a legislative authority or board of commissioners may enter into 71577  
an agreement for one or more of the incentives provided in 71578  
division (C) of section 5709.62 of the Revised Code, subject to 71579  
division (D) of that section; 71580

(2) When the facility is located in an unincorporated area, a 71581  
board of commissioners may enter into an agreement for one or more 71582  
of the incentives provided in divisions (B)(1)(b), (B)(2), and 71583  
(B)(3) of section 5709.63 of the Revised Code, subject to division 71584  
(C) of that section. 71585

(D) All agreements entered into under this section shall be 71586  
in the form prescribed under section 5709.631 of the Revised Code. 71587  
After an agreement under this section is entered into, if the 71588  
legislative authority or board of county commissioners revokes its 71589  
designation of the zone, or if the director of development revokes 71590  
the zone's certification, any entitlements granted under the 71591  
agreement shall continue for the number of years specified in the 71592  
agreement. 71593

(E) Except as otherwise provided in this division, an 71594  
agreement entered into under this section shall require that the 71595  
enterprise pay an annual fee equal to the greater of one per cent 71596  
of the dollar value of incentives offered under the agreement or 71597  
five hundred dollars; provided, however, that if the value of the 71598  
incentives exceeds two hundred fifty thousand dollars, the fee 71599  
shall not exceed two thousand five hundred dollars. The fee shall 71600  
be payable to the legislative authority or board of commissioners 71601  
once per year for each year the agreement is effective on the days 71602  
and in the form specified in the agreement. Fees paid shall be 71603  
deposited in a special fund created for such purpose by the 71604

legislative authority or board and shall be used by the 71605  
legislative authority or board exclusively for the purpose of 71606  
complying with section 5709.68 of the Revised Code and by the tax 71607  
incentive review council created under section 5709.85 of the 71608  
Revised Code exclusively for the purposes of performing the duties 71609  
prescribed under that section. The legislative authority or board 71610  
may waive or reduce the amount of the fee charged against an 71611  
enterprise, but such waiver or reduction does not affect the 71612  
obligations of the legislative authority or board or the tax 71613  
incentive review council to comply with section 5709.68 or 5709.85 71614  
of the Revised Code, respectively. 71615

(F) With the approval of the legislative authority of a 71616  
municipal corporation or the board of township trustees of a 71617  
township in which a zone is designated under division (A)(2) of 71618  
this section, the board of county commissioners may delegate to 71619  
that legislative authority or board any powers and duties of the 71620  
board to negotiate and administer agreements with regard to that 71621  
zone under this section. 71622

(G) When an agreement is entered into pursuant to this 71623  
section, the legislative authority or board of commissioners 71624  
authorizing the agreement shall forward a copy of the agreement to 71625  
the director of development and to the tax commissioner within 71626  
fifteen days after the agreement is entered into. If any agreement 71627  
includes terms not provided for in section 5709.631 of the Revised 71628  
Code affecting the revenue of a city, local, or exempted village 71629  
school district or causing revenue to be forgone by the district, 71630  
including any compensation to be paid to the school district 71631  
pursuant to section 5709.82 of the Revised Code, those terms also 71632  
shall be forwarded in writing to the director of development along 71633  
with the copy of the agreement forwarded under this division. 71634

(H) After an agreement is entered into, the enterprise shall 71635  
file with each personal property tax return required to be filed 71636

while the agreement is in effect, an informational return, on a 71637  
form prescribed by the tax commissioner for that purpose, setting 71638  
forth separately the property, and related costs and values, 71639  
exempted from taxation under the agreement. 71640

(I) An agreement entered into under this section may include 71641  
a provision requiring the enterprise to create one or more 71642  
temporary internship positions for students enrolled in a course 71643  
of study at a school or other educational institution in the 71644  
vicinity, and to create a scholarship or provide another form of 71645  
educational financial assistance for students holding such a 71646  
position in exchange for the student's commitment to work for the 71647  
enterprise at the completion of the internship. 71648

**Sec. 5709.73.** (A) As used in this section and section 5709.74 71649  
of the Revised Code: 71650

(1) "Business day" means a day of the week excluding 71651  
Saturday, Sunday, and a legal holiday as defined in section 1.14 71652  
of the Revised Code. 71653

(2) "Further improvements" or "improvements" means the 71654  
increase in the assessed value of real property that would first 71655  
appear on the tax list and duplicate of real and public utility 71656  
property after the effective date of a resolution adopted under 71657  
this section were it not for the exemption granted by that 71658  
resolution. For purposes of division (B) of this section, 71659  
"improvements" do not include any property used or to be used for 71660  
residential purposes. 71661

(3) "Housing renovation" means a project carried out for 71662  
residential purposes. 71663

(4) "Incentive district" has the same meaning as in section 71664  
5709.40 of the Revised Code, except that a blighted area is in the 71665  
unincorporated area of a township. 71666

(5) "Project" and "public infrastructure improvement" have 71667  
the same meanings as in section 5709.40 of the Revised Code. 71668

(B) A board of township trustees may, by unanimous vote, 71669  
adopt a resolution that declares to be a public purpose any public 71670  
infrastructure improvements made that are necessary for the 71671  
development of certain parcels of land located in the 71672  
unincorporated area of the township. Except with the approval 71673  
under division (D) of this section of the board of education of 71674  
each city, local, or exempted village school district within which 71675  
the improvements are located, the resolution may exempt from real 71676  
property taxation not more than seventy-five per cent of further 71677  
improvements to a parcel of land that directly benefits from the 71678  
public infrastructure improvements, for a period of not more than 71679  
ten years. The resolution shall specify the percentage of the 71680  
further improvements to be exempted and the life of the exemption. 71681

(C)(1) A board of township trustees may adopt, by unanimous 71682  
vote, a resolution creating an incentive district and declaring 71683  
improvements to parcels within the district to be a public purpose 71684  
and, except as provided in division (F) of this section, exempt 71685  
from taxation as provided in this section, but no board of 71686  
township trustees of a township that has a population that exceeds 71687  
twenty-five thousand, as shown by the most recent federal 71688  
decennial census, shall adopt a resolution that creates an 71689  
incentive district if the sum of the taxable value of real 71690  
property in the proposed district for the preceding tax year and 71691  
the taxable value of all real property in the township that would 71692  
have been taxable in the preceding year were it not for the fact 71693  
that the property was in an existing incentive district and 71694  
therefore exempt from taxation exceeds twenty-five per cent of the 71695  
taxable value of real property in the township for the preceding 71696  
tax year. The district shall be located within the unincorporated 71697  
area of the township and shall not include any territory that is 71698

included within a district created under division (B) of section 71699  
5709.78 of the Revised Code. The resolution shall delineate the 71700  
boundary of the district and specifically identify each parcel 71701  
within the district. A district may not include any parcel that is 71702  
or has been exempted from taxation under division (B) of this 71703  
section or that is or has been within another district created 71704  
under this division. A resolution may create more than one 71705  
district, and more than one resolution may be adopted under 71706  
division (C)(1) of this section. 71707

(2) Not later than thirty days prior to adopting a resolution 71708  
under division (C)(1) of this section, if the township intends to 71709  
apply for exemptions from taxation under section 5709.911 of the 71710  
Revised Code on behalf of owners of real property located within 71711  
the proposed incentive district, the board shall conduct a public 71712  
hearing on the proposed resolution. Not later than thirty days 71713  
prior to the public hearing, the board shall give notice of the 71714  
public hearing and the proposed resolution by first class mail to 71715  
every real property owner whose property is located within the 71716  
boundaries of the proposed incentive district that is the subject 71717  
of the proposed resolution. 71718

(3)(a) A resolution adopted under division (C)(1) of this 71719  
section shall specify the life of the incentive district and the 71720  
percentage of the improvements to be exempted, shall designate the 71721  
public infrastructure improvements made, to be made, or in the 71722  
process of being made, that benefit or serve, or, once made, will 71723  
benefit or serve parcels in the district. The resolution also 71724  
shall identify one or more specific projects being, or to be, 71725  
undertaken in the district that place additional demand on the 71726  
public infrastructure improvements designated in the resolution. 71727  
The project identified may, but need not be, the project under 71728  
division (C)(3)(b) of this section that places real property in 71729  
use for commercial or industrial purposes. 71730

A resolution adopted under division (C)(1) of this section on 71731  
or after March 30, 2006, shall not designate police or fire 71732  
equipment as public infrastructure improvements, and no service 71733  
payment provided for in section 5709.74 of the Revised Code and 71734  
received by the township under the resolution shall be used for 71735  
police or fire equipment. 71736

(b) A resolution adopted under division (C)(1) of this 71737  
section may authorize the use of service payments provided for in 71738  
section 5709.74 of the Revised Code for the purpose of housing 71739  
renovations within the incentive district, provided that the 71740  
resolution also designates public infrastructure improvements that 71741  
benefit or serve the district, and that a project within the 71742  
district places real property in use for commercial or industrial 71743  
purposes. Service payments may be used to finance or support 71744  
loans, deferred loans, and grants to persons for the purpose of 71745  
housing renovations within the district. The resolution shall 71746  
designate the parcels within the district that are eligible for 71747  
housing renovations. The resolution shall state separately the 71748  
amount or the percentages of the expected aggregate service 71749  
payments that are designated for each public infrastructure 71750  
improvement and for the purpose of housing renovations. 71751

(4) Except with the approval of the board of education of 71752  
each city, local, or exempted village school district within the 71753  
territory of which the incentive district is or will be located, 71754  
and subject to division (E) of this section, the life of an 71755  
incentive district shall not exceed ten years, and the percentage 71756  
of improvements to be exempted shall not exceed seventy-five per 71757  
cent. With approval of the board of education, the life of a 71758  
district may be not more than thirty years, and the percentage of 71759  
improvements to be exempted may be not more than one hundred per 71760  
cent. The approval of a board of education shall be obtained in 71761  
the manner provided in division (D) of this section. 71762

(D) Improvements with respect to a parcel may be exempted 71763  
from taxation under division (B) of this section, and improvements 71764  
to parcels within an incentive district may be exempted from 71765  
taxation under division (C) of this section, for up to ten years 71766  
or, with the approval of the board of education of the city, 71767  
local, or exempted village school district within which the parcel 71768  
or district is located, for up to thirty years. The percentage of 71769  
the improvements exempted from taxation may, with such approval, 71770  
exceed seventy-five per cent, but shall not exceed one hundred per 71771  
cent. Not later than forty-five business days prior to adopting a 71772  
resolution under this section declaring improvements to be a 71773  
public purpose that is subject to approval by a board of education 71774  
under this division, the board of township trustees shall deliver 71775  
to the board of education a notice stating its intent to adopt a 71776  
resolution making that declaration. The notice regarding 71777  
improvements with respect to a parcel under division (B) of this 71778  
section shall identify the parcels for which improvements are to 71779  
be exempted from taxation, provide an estimate of the true value 71780  
in money of the improvements, specify the period for which the 71781  
improvements would be exempted from taxation and the percentage of 71782  
the improvements that would be exempted, and indicate the date on 71783  
which the board of township trustees intends to adopt the 71784  
resolution. The notice regarding improvements made under division 71785  
(C) of this section to parcels within an incentive district shall 71786  
delineate the boundaries of the district, specifically identify 71787  
each parcel within the district, identify each anticipated 71788  
improvement in the district, provide an estimate of the true value 71789  
in money of each such improvement, specify the life of the 71790  
district and the percentage of improvements that would be 71791  
exempted, and indicate the date on which the board of township 71792  
trustees intends to adopt the resolution. The board of education, 71793  
by resolution adopted by a majority of the board, may approve the 71794  
exemption for the period or for the exemption percentage specified 71795

in the notice; may disapprove the exemption for the number of 71796  
years in excess of ten, may disapprove the exemption for the 71797  
percentage of the improvements to be exempted in excess of 71798  
seventy-five per cent, or both; or may approve the exemption on 71799  
the condition that the board of township trustees and the board of 71800  
education negotiate an agreement providing for compensation to the 71801  
school district equal in value to a percentage of the amount of 71802  
taxes exempted in the eleventh and subsequent years of the 71803  
exemption period or, in the case of exemption percentages in 71804  
excess of seventy-five per cent, compensation equal in value to a 71805  
percentage of the taxes that would be payable on the portion of 71806  
the improvements in excess of seventy-five per cent were that 71807  
portion to be subject to taxation, or other mutually agreeable 71808  
compensation. 71809

The board of education shall certify its resolution to the 71810  
board of township trustees not later than fourteen days prior to 71811  
the date the board of township trustees intends to adopt the 71812  
resolution as indicated in the notice. If the board of education 71813  
and the board of township trustees negotiate a mutually acceptable 71814  
compensation agreement, the resolution may declare the 71815  
improvements a public purpose for the number of years specified in 71816  
the resolution or, in the case of exemption percentages in excess 71817  
of seventy-five per cent, for the exemption percentage specified 71818  
in the resolution. In either case, if the board of education and 71819  
the board of township trustees fail to negotiate a mutually 71820  
acceptable compensation agreement, the resolution may declare the 71821  
improvements a public purpose for not more than ten years, and 71822  
shall not exempt more than seventy-five per cent of the 71823  
improvements from taxation. If the board of education fails to 71824  
certify a resolution to the board of township trustees within the 71825  
time prescribed by this section, the board of township trustees 71826  
thereupon may adopt the resolution and may declare the 71827  
improvements a public purpose for up to thirty years or, in the 71828

case of exemption percentages proposed in excess of seventy-five 71829  
per cent, for the exemption percentage specified in the 71830  
resolution. The board of township trustees may adopt the 71831  
resolution at any time after the board of education certifies its 71832  
resolution approving the exemption to the board of township 71833  
trustees, or, if the board of education approves the exemption on 71834  
the condition that a mutually acceptable compensation agreement be 71835  
negotiated, at any time after the compensation agreement is agreed 71836  
to by the board of education and the board of township trustees. 71837  
If a mutually acceptable compensation agreement is negotiated 71838  
between the board of township trustees and the board of education, 71839  
including agreements for payments in lieu of taxes under section 71840  
5709.74 of the Revised Code, the board of township trustees shall 71841  
compensate the joint vocational school district within which the 71842  
parcel or district is located at the same rate and under the same 71843  
terms received by the city, local, or exempted village school 71844  
district. 71845

If a board of education has adopted a resolution waiving its 71846  
right to approve exemptions from taxation under this section and 71847  
the resolution remains in effect, approval of such exemptions by 71848  
the board of education is not required under division (D) of this 71849  
section. If a board of education has adopted a resolution allowing 71850  
a board of township trustees to deliver the notice required under 71851  
division (D) of this section fewer than forty-five business days 71852  
prior to adoption of the resolution by the board of township 71853  
trustees, the board of township trustees shall deliver the notice 71854  
to the board of education not later than the number of days prior 71855  
to the adoption as prescribed by the board of education in its 71856  
resolution. If a board of education adopts a resolution waiving 71857  
its right to approve exemptions or shortening the notification 71858  
period, the board of education shall certify a copy of the 71859  
resolution to the board of township trustees. If the board of 71860  
education rescinds the resolution, it shall certify notice of the 71861

rescission to the board of township trustees. 71862

If the board of township trustees is not required by division 71863  
(D) of this section to notify the board of education of the board 71864  
of township trustees' intent to declare improvements to be a 71865  
public purpose, the board of township trustees shall comply with 71866  
the notice requirements imposed under section 5709.83 of the 71867  
Revised Code before taking formal action to adopt the resolution 71868  
making that declaration, unless the board of education has adopted 71869  
a resolution under that section waiving its right to receive the 71870  
notice. 71871

(E)(1) If a proposed resolution under division (C)(1) of this 71872  
section exempts improvements with respect to a parcel within an 71873  
incentive district for more than ten years, or the percentage of 71874  
the improvement exempted from taxation exceeds seventy-five per 71875  
cent, not later than forty-five business days prior to adopting 71876  
the resolution the board of township trustees shall deliver to the 71877  
board of county commissioners of the county within which the 71878  
incentive district is or will be located a notice that states its 71879  
intent to adopt a resolution creating an incentive district. The 71880  
notice shall include a copy of the proposed resolution, identify 71881  
the parcels for which improvements are to be exempted from 71882  
taxation, provide an estimate of the true value in money of the 71883  
improvements, specify the period of time for which the 71884  
improvements would be exempted from taxation, specify the 71885  
percentage of the improvements that would be exempted from 71886  
taxation, and indicate the date on which the board of township 71887  
trustees intends to adopt the resolution. 71888

(2) The board of county commissioners, by resolution adopted 71889  
by a majority of the board, may object to the exemption for the 71890  
number of years in excess of ten, may object to the exemption for 71891  
the percentage of the improvement to be exempted in excess of 71892  
seventy-five per cent, or both. If the board of county 71893

commissioners objects, the board may negotiate a mutually 71894  
acceptable compensation agreement with the board of township 71895  
trustees. In no case shall the compensation provided to the board 71896  
of county commissioners exceed the property taxes foregone due to 71897  
the exemption. If the board of county commissioners objects, and 71898  
the board of county commissioners and board of township trustees 71899  
fail to negotiate a mutually acceptable compensation agreement, 71900  
the resolution adopted under division (C)(1) of this section shall 71901  
provide to the board of county commissioners compensation in the 71902  
eleventh and subsequent years of the exemption period equal in 71903  
value to not more than fifty per cent of the taxes that would be 71904  
payable to the county or, if the board of county commissioner's 71905  
objection includes an objection to an exemption percentage in 71906  
excess of seventy-five per cent, compensation equal in value to 71907  
not more than fifty per cent of the taxes that would be payable to 71908  
the county, on the portion of the improvement in excess of 71909  
seventy-five per cent, were that portion to be subject to 71910  
taxation. The board of county commissioners shall certify its 71911  
resolution to the board of township trustees not later than thirty 71912  
days after receipt of the notice. 71913

(3) If the board of county commissioners does not object or 71914  
fails to certify its resolution objecting to an exemption within 71915  
thirty days after receipt of the notice, the board of township 71916  
trustees may adopt its resolution, and no compensation shall be 71917  
provided to the board of county commissioners. If the board of 71918  
county commissioners timely certifies its resolution objecting to 71919  
the trustees' resolution, the board of township trustees may adopt 71920  
its resolution at any time after a mutually acceptable 71921  
compensation agreement is agreed to by the board of county 71922  
commissioners and the board of township trustees, or, if no 71923  
compensation agreement is negotiated, at any time after the board 71924  
of township trustees agrees in the proposed resolution to provide 71925  
compensation to the board of county commissioners of fifty per 71926

cent of the taxes that would be payable to the county in the 71927  
eleventh and subsequent years of the exemption period or on the 71928  
portion of the improvement in excess of seventy-five per cent, 71929  
were that portion to be subject to taxation. 71930

(F) Service payments in lieu of taxes that are attributable 71931  
to any amount by which the effective tax rate of either a renewal 71932  
levy with an increase or a replacement levy exceeds the effective 71933  
tax rate of the levy renewed or replaced, or that are attributable 71934  
to an additional levy, for a levy authorized by the voters for any 71935  
of the following purposes on or after January 1, 2006, and which 71936  
are provided pursuant to a resolution creating an incentive 71937  
district under division (C)(1) of this section that is adopted on 71938  
or after January 1, 2006, shall be distributed to the appropriate 71939  
taxing authority as required under division (C) of section 5709.74 71940  
of the Revised Code in an amount equal to the amount of taxes from 71941  
that additional levy or from the increase in the effective tax 71942  
rate of such renewal or replacement levy that would have been 71943  
payable to that taxing authority from the following levies were it 71944  
not for the exemption authorized under division (C) of this 71945  
section: 71946

(1) A tax levied under division (L) of section 5705.19 or 71947  
section 5705.191 of the Revised Code for community mental 71948  
retardation and developmental disabilities programs and services 71949  
pursuant to Chapter 5126. of the Revised Code; 71950

(2) A tax levied under division (Y) of section 5705.19 of the 71951  
Revised Code for providing or maintaining senior citizens services 71952  
or facilities; 71953

(3) A tax levied under section 5705.22 of the Revised Code 71954  
for county hospitals; 71955

(4) A tax levied by a joint-county district or by a county 71956  
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 71957

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| for alcohol, drug addiction, and mental health services or families;   | 71958<br>71959                            |
| (5) A tax levied under section 5705.23 of the Revised Code for library purposes;   | 71960<br>71961                            |
| (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;  | 71962<br>71963<br>71964                   |
| (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;  | 71965<br>71966<br>71967                   |
| (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;   | 71968<br>71969<br>71970                   |
| (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;   | 71971<br>71972<br>71973<br>71974          |
| (10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;   | 71975<br>71976                            |
| (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;   | 71977<br>71978<br>71979<br>71980          |
| (12) A tax levied under section 3709.29 of the Revised Code for a general health district program.   | 71981<br>71982                            |
| (G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or | 71983<br>71984<br>71985<br>71986<br>71987 |

specifies no year whatsoever, the exemption commences with the tax 71988  
year in which an exempted improvement first appears on the tax 71989  
list and duplicate of real and public utility property and that 71990  
commences after the effective date of the resolution. Except as 71991  
otherwise provided in this division, the exemption ends on the 71992  
date specified in the resolution as the date the improvement 71993  
ceases to be a public purpose or the incentive district expires, 71994  
or ends on the date on which the public infrastructure 71995  
improvements and housing renovations are paid in full from the 71996  
township public improvement tax increment equivalent fund 71997  
established under section 5709.75 of the Revised Code, whichever 71998  
occurs first. The exemption of an improvement with respect to a 71999  
parcel or within an incentive district may end on a later date, as 72000  
specified in the resolution, if the board of township trustees and 72001  
the board of education of the city, local, or exempted village 72002  
school district within which the parcel or district is located 72003  
have entered into a compensation agreement under section 5709.82 72004  
of the Revised Code with respect to the improvement and the board 72005  
of education has approved the term of the exemption under division 72006  
(D) of this section, but in no case shall the improvement be 72007  
exempted from taxation for more than thirty years. The board of 72008  
township trustees may, by majority vote, adopt a resolution 72009  
permitting the township to enter into such agreements as the board 72010  
finds necessary or appropriate to provide for the construction or 72011  
undertaking of public infrastructure improvements and housing 72012  
renovations. Any exemption shall be claimed and allowed in the 72013  
same or a similar manner as in the case of other real property 72014  
exemptions. If an exemption status changes during a tax year, the 72015  
procedure for the apportionment of the taxes for that year is the 72016  
same as in the case of other changes in tax exemption status 72017  
during the year. 72018

(H) The board of township trustees may issue the notes of the 72019  
township to finance all costs pertaining to the construction or 72020

undertaking of public infrastructure improvements and housing 72021  
renovations made pursuant to this section. The notes shall be 72022  
signed by the board and attested by the signature of the township 72023  
fiscal officer, shall bear interest not to exceed the rate 72024  
provided in section 9.95 of the Revised Code, and are not subject 72025  
to Chapter 133. of the Revised Code. The resolution authorizing 72026  
the issuance of the notes shall pledge the funds of the township 72027  
public improvement tax increment equivalent fund established 72028  
pursuant to section 5709.75 of the Revised Code to pay the 72029  
interest on and principal of the notes. The notes, which may 72030  
contain a clause permitting prepayment at the option of the board, 72031  
shall be offered for sale on the open market or given to the 72032  
vendor or contractor if no sale is made. 72033

(I) The township, not later than fifteen days after the 72034  
adoption of a resolution under this section, shall submit to the 72035  
director of development a copy of the resolution. On or before the 72036  
thirty-first day of March of each year, the township shall submit 72037  
a status report to the director of development. The report shall 72038  
indicate, in the manner prescribed by the director, the progress 72039  
of the project during each year that the exemption remains in 72040  
effect, including a summary of the receipts from service payments 72041  
in lieu of taxes; expenditures of money from the fund created 72042  
under section 5709.75 of the Revised Code; a description of the 72043  
public infrastructure improvements and housing renovations 72044  
financed with the expenditures; and a quantitative summary of 72045  
changes in private investment resulting from each project. 72046

(J) Nothing in this section shall be construed to prohibit a 72047  
board of township trustees from declaring to be a public purpose 72048  
improvements with respect to more than one parcel. 72049

(K) A board of township trustees that adopted a resolution 72050  
under this section prior to July 21, 1994, may amend that 72051  
resolution to include any additional public infrastructure 72052

improvement. A board of township trustees that seeks by the 72053  
amendment to utilize money from its township public improvement 72054  
tax increment equivalent fund for land acquisition in aid of 72055  
industry, commerce, distribution, or research, demolition on 72056  
private property, or stormwater and flood remediation projects may 72057  
do so provided that the board currently is a party to a 72058  
hold-harmless agreement with the board of education of the city, 72059  
local, or exempted village school district within the territory of 72060  
which are located the parcels that are subject to an exemption. 72061  
For the purposes of this division, a "hold-harmless agreement" 72062  
means an agreement under which the board of township trustees 72063  
agrees to compensate the school district for one hundred per cent 72064  
of the tax revenue that the school district would have received 72065  
from further improvements to parcels designated in the resolution 72066  
were it not for the exemption granted by the resolution. 72067

(L) With respect to improvements resulting from projects, for 72068  
which construction commences on or after April 1, 2012, and on or 72069  
before December 31, 2013, and for which an exemption has been or 72070  
will be sought pursuant to a resolution adopted under this section 72071  
before December 14, 2001, "property used or to be used for 72072  
residential purposes," as used in division (A)(2) of this section, 72073  
means only that property that, as improved, the tax commissioner 72074  
would classify as residential land and improvements pursuant to 72075  
rules adopted by the tax commissioner under section 5713.041 of 72076  
the Revised Code. 72077

**Sec. 5709.75.** (A) Any township that receives service payments 72078  
in lieu of taxes under section 5709.74 of the Revised Code shall 72079  
establish a township public improvement tax increment equivalent 72080  
fund into which those payments shall be deposited. If the board of 72081  
township trustees has adopted a resolution under division (C) of 72082  
section 5709.73 of the Revised Code, the township shall establish 72083  
at least one account in that fund with respect to resolutions 72084

adopted under division (B) of that section, and one account with 72085  
respect to each incentive district created by a resolution adopted 72086  
under division (C) of that section. If a resolution adopted under 72087  
division (C) of section 5709.73 of the Revised Code also 72088  
authorizes the use of service payments for housing renovations 72089  
within the incentive district, the township shall establish 72090  
separate accounts for the service payments designated for public 72091  
infrastructure improvements and for the service payments 72092  
authorized for the purpose of housing renovations. 72093

(B) Except as otherwise provided in division (C) or (D) of 72094  
this section, money deposited in an account of the township public 72095  
improvement tax increment equivalent fund shall be used by the 72096  
township to pay the costs of public infrastructure improvements 72097  
designated in or the housing renovations authorized by the 72098  
resolution with respect to which the account is established, 72099  
including any interest on and principal of the notes; in the case 72100  
of an account established with respect to a resolution adopted 72101  
under division (C) of that section, money in the account shall be 72102  
used to finance the public infrastructure improvements designated, 72103  
or the housing renovations authorized, for each incentive district 72104  
created in the resolution. Money in an account shall not be used 72105  
to finance or support housing renovations that take place after 72106  
the incentive district has expired. 72107

(C)(1)(a) A township may distribute money in such an account 72108  
to any school district in which the exempt property is located in 72109  
an amount not to exceed the amount of real property taxes that 72110  
such school district would have received from the improvement if 72111  
it were not exempt from taxation. The resolution establishing the 72112  
fund shall set forth the percentage of such maximum amount that 72113  
will be distributed to any affected school district. 72114

(b) A township also may distribute money in such an account 72115  
as follows: 72116

(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, and that, with respect to property exempted under such a resolution, is party to a hold-harmless 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 resolution.

(E)(1) A township may use surplus money in the township public improvement tax increment equivalent fund, or an account of that fund, to repay a loan or provide matching funds for a grant awarded to the township under the local government innovation

program created in section 189.02 of the Revised Code. 72149

(2) Any incidental surplus remaining in the township public 72150  
improvement tax increment equivalent fund or an account of that 72151  
fund upon dissolution of the account or fund shall be used as 72152  
provided in division (E)(1) of this section or transferred to the 72153  
general fund of the township. 72154

**Sec. 5709.80.** (A) The board of county commissioners of a 72155  
county that receives service payments in lieu of taxes under 72156  
section 5709.79 of the Revised Code shall establish a 72157  
redevelopment tax equivalent fund into which those payments shall 72158  
be deposited. Separate accounts shall be established in the fund 72159  
for each resolution adopted by the board of county commissioners 72160  
under section 5709.78 of the Revised Code. If the board of county 72161  
commissioners has adopted a resolution under division (B) of that 72162  
section, the county shall establish an account for each incentive 72163  
district created in that resolution. If a resolution adopted under 72164  
division (B) of section 5709.78 of the Revised Code also 72165  
authorizes the use of service payments for housing renovations 72166  
within the incentive district, the county shall establish separate 72167  
accounts for the service payments designated for public 72168  
infrastructure improvements and for the service payments 72169  
authorized for the purpose of housing renovations. 72170

(B) Moneys deposited into each account of the fund shall be 72171  
used by the county to pay the cost of constructing or repairing 72172  
the public infrastructure improvements designated in, or the 72173  
housing renovations authorized by, the resolution, or for each 72174  
incentive district for which the account is established, to pay 72175  
the interest on and principal of bonds or notes issued under 72176  
division (B) of section 307.082 or division (A) of section 5709.81 72177  
of the Revised Code, or for the purposes pledged under division 72178  
(B) of section 5709.81 of the Revised Code. Money in an account 72179

shall not be used to finance or support housing renovations that 72180  
take place after the incentive district has expired. 72181

(C)(1)(a) The board of county commissioners may distribute 72182  
money in an account to any school district in which the exempt 72183  
property is located in an amount not to exceed the amount of real 72184  
property taxes that such school district would have received from 72185  
the improvement if it were not exempt from taxation. The 72186  
resolution under which an account is established shall set forth 72187  
the percentage of such maximum amount that will be distributed to 72188  
any affected school district. 72189

(b) A board of county commissioners also may distribute money 72190  
in such an account as follows: 72191

(i) To a board of township trustees or legislative authority 72192  
of a municipal corporation, as applicable, in the amount that is 72193  
owed to the board of township trustees or legislative authority 72194  
pursuant to division (D) of section 5709.78 of the Revised Code; 72195

(ii) To a township in accordance with section 5709.914 of the 72196  
Revised Code. 72197

(2) Money from an account in the redevelopment tax equivalent 72198  
fund may be distributed under division (C)(1)(b) of this section, 72199  
regardless of the date a resolution was adopted under section 72200  
5709.78 of the Revised Code that prompted the establishment of the 72201  
account, even if the resolution was adopted prior to ~~the effective~~ 72202  
~~date of this amendment~~ March 30, 2006. 72203

(D) ~~An account dissolves upon fulfillment of the purposes for~~ 72204  
~~which money in the account may be used~~ (1) A county may use 72205  
surplus money in an account of the redevelopment tax equivalent 72206  
fund to repay a loan or provide matching funds for a grant awarded 72207  
to the county under the local government innovation program 72208  
created in section 189.02 of the Revised Code. 72209

(2) An incidental surplus remaining in an account upon its 72210

dissolution shall be used as provided in division (D)(1) of this 72211  
section or transferred to the general fund of the county. 72212

Sec. 5713.012. (A) For purposes of this section: 72213

(1) "Mass appraisal project" means any sexennial reappraisal, 72214  
triennial update, or other revaluation of all real property or the 72215  
valuation of newly constructed real property in accordance with 72216  
section 5713.01 of the Revised Code. 72217

(2) "Qualified project manager" means a person who plans, 72218  
manages, coordinates, and controls the execution of a mass 72219  
appraisal project under the direction of the county auditor and 72220  
who has all of the following qualifications: 72221

(a) Has passed a comprehensive final examination that 72222  
corresponds to a course, approved by the superintendent of real 72223  
estate and professional licensing, that consists of at least 72224  
thirty hours of instruction, quizzes, and learning aids. The 72225  
superintendent shall not approve a course under this division that 72226  
does not address the following topics in both the instruction and 72227  
the examination: 72228

(i) Concepts and principles of mass appraisal as they relate 72229  
to the assessment of real property for the purposes of ad valorem 72230  
taxation; 72231

(ii) Methods of data collection and data management relative 72232  
to parcels of real property, including modern alternative data 72233  
collection methods and currently utilized computer-assisted mass 72234  
appraisal systems; 72235

(iii) Assessment sales-ratio study including various measures 72236  
of central tendency, the various measures of dispersion of data 72237  
about the mean, median, and dollar-weighted mean, and the 72238  
advantages and disadvantages of various analysis techniques; 72239

(iv) Traditional approaches of property valuation, including 72240

the cost approach, the sales comparison approach, and the income approach, as they are implemented in a mass appraisal project; 72241  
72242

(v) Methods and systems for model building and model calibration as related to mass appraisal of real property; 72243  
72244

(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. 72245  
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(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. 72250  
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(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. 72255  
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(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. 72262  
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(3) The tax commissioner, beginning two years after the 72271

effective date of the enactment of this section by H.B. 487 of the 72272  
129th general assembly, shall not include any person that has not 72273  
designated an officer or employee, with the appropriate 72274  
credentials, to act as a qualified project manager on a list 72275  
generated by the commissioner for either of the following 72276  
purposes: 72277

(a) To assist county auditors in selecting a person to do all 72278  
or any part of the work necessary to the performance of the 72279  
auditor's duties as assessor of all real property under section 72280  
5713.01 of the Revised Code; 72281

(b) To assist the commissioner in the consideration of 72282  
whether to approve or disapprove the auditor's application 72283  
requesting authority to employ an appraisal firm or individual 72284  
appraiser. 72285

**Sec. 5713.03.** The county auditor, from the best sources of 72286  
information available, shall determine, as nearly as practicable, 72287  
the true value of the fee simple estate, as if unencumbered, of 72288  
each separate tract, lot, or parcel of real property and of 72289  
buildings, structures, and improvements located thereon and the 72290  
current agricultural use value of land valued for tax purposes in 72291  
accordance with section 5713.31 of the Revised Code, in every 72292  
district, according to the rules prescribed by this chapter and 72293  
section 5715.01 of the Revised Code, and in accordance with the 72294  
uniform rules and methods of valuing and assessing real property 72295  
as adopted, prescribed, and promulgated by the tax commissioner. 72296  
~~He~~ The auditor shall determine the taxable value of all real 72297  
property by reducing its true or current agricultural use value by 72298  
the percentage ordered by the commissioner. In determining the 72299  
true value of any tract, lot, or parcel of real estate under this 72300  
section, if such tract, lot, or parcel has been the subject of an 72301  
arm's length sale between a willing seller and a willing buyer 72302

within a reasonable length of time, either before or after the tax  
lien date, the auditor ~~shall~~ may consider the sale price of such  
tract, lot, or parcel to be the true value for taxation purposes.  
However, the sale price in an arm's length transaction between a  
willing seller and a willing buyer shall not be considered the  
true value of the property sold if subsequent to the sale:

(A) The tract, lot, or parcel of real estate loses value due  
to some casualty;

(B) An improvement is added to the property. Nothing in this  
section or section 5713.01 of the Revised Code and no rule adopted  
under section 5715.01 of the Revised Code shall require the county  
auditor to change the true value in money of any property in any  
year except a year in which the tax commissioner is required to  
determine under section 5715.24 of the Revised Code whether the  
property has been assessed as required by law.

The county auditor shall adopt and use a real property record  
approved by the commissioner for each tract, lot, or parcel of  
real property, setting forth the true and taxable value of land  
and, in the case of land valued in accordance with section 5713.31  
of the Revised Code, its current agricultural use value, the  
number of acres of arable land, permanent pasture land, woodland,  
and wasteland in each tract, lot, or parcel. ~~He~~ The auditor shall  
record pertinent information and the true and taxable value of  
each building, structure, or improvement to land, which value  
shall be included as a separate part of the total value of each  
tract, lot, or parcel of real property.

**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 72334  
remittance shall be made payable to the treasurer of state and 72335  
shall be made in the form prescribed by the commissioner. Any 72336  
dealer in intangibles who fails to pay said taxes as provided in 72337  
this section shall be liable by way of penalty for the gross 72338  
amount of the taxes due from all the owners of shares, and for an 72339  
additional amount of one hundred dollars for each day of delay in 72340  
the payment of said taxes. 72341

A dealer in intangibles who pays ~~to the treasurer of state~~ 72342  
the taxes assessed upon its shares in the hands of its 72343  
shareholders, as provided in this section, may deduct the amount 72344  
thereof from dividends or distributions that are due or thereafter 72345  
become due on such shares, and shall have a lien on the shares of 72346  
stock and all funds belonging to such shareholders in its 72347  
possession, or which come into its possession, for reimbursement 72348  
of such tax paid on account of the shareholders, with legal 72349  
interest. Such lien may be enforced in any appropriate manner. 72350

**Sec. 5725.14.** (A) As used in this section and section 5725.15 72351  
of the Revised Code: 72352

(1) "Billing address" of a customer means one of the 72353  
following: 72354

(a) The customer's address as set forth in any notice, 72355  
statement, bill, or similar acknowledgment shall be presumed to be 72356  
the address where the customer is located with respect to the 72357  
transaction for which the dealer issued the notice, statement, 72358  
bill, or acknowledgment. 72359

(b) If the dealer issues any notice, statement, bill, or 72360  
similar acknowledgment electronically to an address other than a 72361  
street address or post office box address or if the dealer does 72362  
not issue such a notice, statement, bill, or acknowledgment, the 72363  
customer's street address as set forth in the records of the 72364

dealer at the time of the transaction shall be presumed to be the address where the customer is located.

(2) "Commissions" includes but is not limited to brokerage commissions, asset management fees, and similar fees charged in the regular course of business to a customer for the maintenance and management of the customer's account.

(3) "Gross receipts" means one of the following:

(a) In the case of a dealer in intangibles principally engaged in the business of lending money or discounting loans, the aggregate amount of loans effected or discounted;

(b) In the case of a dealer in intangibles principally engaged in the business of selling or buying stocks, bonds, or other similar securities either on the dealer's own account or as agent for another, the aggregate amount of all commissions charged.

(B) Each dealer in intangibles shall return to the tax commissioner between the first and second Mondays of March, annually, a report exhibiting in detail, and under appropriate heads, the dealer's resources and liabilities at the close of business on the thirty-first day of December next preceding, together with remittance made payable to the treasurer of state of the tax levied under division (D) of section 5707.03 of the Revised Code. In the case of an unincorporated dealer in intangibles, such report shall also exhibit the amount or value as of the date of conversion of all property within the year preceding the date of listing, and on or after the first day of November converted into bonds or other securities not taxed to the extent such nontaxable bonds or securities may be shown in the dealer's resources on such date, without deduction for indebtedness created in the purchase of such nontaxable bonds or securities.

If a dealer in intangibles maintains separate business offices, whether within this state only or within and without this state, the report shall also show the gross receipts from business done at each such office during the year ending on the thirty-first day of December next preceding.

For the purposes of this section and section 5725.15 of the Revised Code, business is considered done at an office when it originates at such office, but the receipts from business originating at one office and consummated at another office shall be divided equitably between such offices.

(C) For the purposes of this section and section 5725.15 of the Revised Code, in the case of a dealer in intangibles principally engaged in the business of selling or buying stocks, bonds, or other similar securities either on the dealer's own account or as agent for another, the dealer's capital, surplus, and undivided profits employed in this state shall bear the same ratio to the dealer's total capital, surplus, and undivided profits employed everywhere as the amount described in division (C)(1) of this section bears to the amount described in division (C)(2) of this section:

(1) The sum of the commissions earned during the year covered by the ~~report~~ return from transactions with respect to brokerage accounts owned by customers having billing addresses in this state;

(2) The sum of the commissions earned during that year from transactions with respect to brokerage accounts owned by all of the dealer's customers.

(D) An incorporated dealer in intangibles which owns or controls fifty-one per cent or more of the common stock of another incorporated dealer in intangibles may, under uniform regulations prescribed by the tax commissioner, make a consolidated return for

the purpose of sections 5725.01 to 5725.26, ~~inclusive,~~ of the Revised Code. In such case the parent corporation making such return is not required to include in its resources any of the stocks, securities, or other obligations of its subsidiary dealers, nor permitted to include in its liabilities any of its own securities or other obligations belonging to its subsidiaries.

**Sec. 5725.15.** ~~Upon receiving the~~ The report required by section 5725.14 of the Revised Code, ~~the tax commissioner~~ shall ~~ascertain and assess~~ include as taxable property all the shares of ~~such dealers~~ the dealer in intangibles, the capital stock of which is divided into shares, representing capital employed in this state, and the value of the property representing the capital, not divided into shares, employed in this state by such dealer in intangibles, according to the aggregate fair value of the capital, surplus, and undivided profits as shown in such report, including in the case of an unincorporated dealer, the value of property converted into nontaxable bonds or securities within the preceding year, without deduction for indebtedness created in the purchase of such nontaxable bonds or securities.

The filing by a dealer of the report required by section 5725.14 of the Revised Code shall be the preliminary assessment of the shares and property listed therein.

If a dealer has separate offices, whether within this state only or within and without this state, the ~~commissioner~~ dealer shall ~~find~~ list the amount of capital employed in each office in this state, which shall bear the same ratio to the entire capital of such dealer, wherever employed, as the gross receipts of such office bears to the entire gross receipts of such dealer, wherever arising.

The aggregate book value of the capital, surplus, and undivided profits of a dealer in intangibles as shown in such

report shall be taken as the fair value thereof for the purpose of 72458  
the assessment required by this section, unless the commissioner 72459  
finds that such book value is greater or less than the then fair 72460  
value of said capital, surplus, and undivided profits. Claim for 72461  
any deduction from book value of capital, surplus, and undivided 72462  
profits must be made in writing by the dealer in intangibles at 72463  
the time of making ~~his~~ the dealer's return. 72464

Whenever the commissioner assesses the fair value of the 72465  
capital, surplus, and undivided profits of a dealer in intangibles 72466  
at an amount in excess of the ~~book~~ value thereof as ~~shown by its~~ 72467  
~~report, or disallows any claim for deduction from book value of~~ 72468  
~~such capital, surplus, and undivided profits~~ listed in the 72469  
dealer's report, or assesses the shares or property of a dealer 72470  
that fails to file a return, he the commissioner shall give notice 72471  
and proceed as provided in section 5711.31 of the Revised Code. 72472

**Sec. 5725.16.** On or before the first Monday of May, annually 72473  
, the tax commissioner shall certify to the treasurer of state the 72474  
assessment of the shares or property representing capital, or 72475  
apportionment of either, of each dealer in intangibles doing 72476  
business in the state, showing separately the amount representing 72477  
capital employed in each county. 72478

The treasurer of state shall place the amounts certified on 72479  
the intangible property tax list in ~~his~~ the treasurer of state's 72480  
office in the names of the dealers represented by those 72481  
certificates. 72482

~~Any certificate of abatement issued pursuant to section~~ 72483  
~~5703.05 of the Revised Code for the overpayment of the tax on~~ 72484  
~~shares or property representing capital of a~~ The commissioner 72485  
shall collect, on behalf of the treasurer, the taxes due on the 72486  
assessments certified pursuant to this section, together with any 72487  
applicable penalties or interest, in the manner prescribed by 72488

section 5725.22 of the Revised Code. The commissioner shall 72489  
immediately forward to the treasurer any payments received under 72490  
this section or section 5719.13 of the Revised Code. The treasurer 72491  
shall credit all such payments against the appropriate amounts on 72492  
the intangible property tax list in the treasurer's office. 72493

~~A dealer in intangibles may be tendered by the payee or~~ 72494  
~~transferee thereof to the treasurer of state as payment for any~~ 72495  
~~taxes allocable to the county in which the claim for a refund of~~ 72496  
~~any overpayment arose of the tax levied under division (D) of~~ 72497  
~~section 5707.03 of the Revised Code by filing an application for~~ 72498  
~~final assessment in accordance with section 5711.26 of the Revised~~ 72499  
~~Code.~~ 72500

**Sec. 5725.17.** (A) In addition to any other penalty imposed by 72501  
this chapter or Chapter 5703. of the Revised Code, the following 72502  
penalties shall apply: 72503

(1) If a dealer in intangibles fails to make and furnish to 72504  
the tax commissioner the report required by section 5725.14 of the 72505  
Revised Code, within the time fixed by that section, a penalty 72506  
shall be imposed equal to the greater of fifty dollars per month 72507  
or fraction of a month, not to exceed five hundred dollars, or 72508  
five per cent per month or fraction of a month, not to exceed 72509  
fifty per cent, of the tax required to be shown on the report, for 72510  
each month or fraction of a month elapsing between the due date, 72511  
including extensions of the due date, and the date on which the 72512  
report is filed. 72513

(2) If a dealer in intangibles fails to pay any amounts of 72514  
the tax levied by division (D) of section 5707.03 of the Revised 72515  
Code by the dates prescribed for payment, a penalty shall be 72516  
imposed equal to the greater of the penalty due under division 72517  
(~~C~~)(F) of section 5725.22 of the Revised Code, for which this 72518  
penalty shall be a substitute, or two times the interest charged 72519

under section 5725.221 of the Revised Code for the delinquent 72520  
payment. 72521

(3) If a dealer in intangibles submits a report required by 72522  
section 5725.14 of the Revised Code that is marked, defaced, or 72523  
otherwise designed by the dealer to be a frivolous protest or an 72524  
attempt to delay or impede the administration of the tax levied by 72525  
division (D) of section 5707.03 of the Revised Code, a penalty 72526  
shall be imposed equal to the greater of one hundred dollars or 72527  
twenty-five per cent of the tax required to be shown on the 72528  
report. 72529

(4) If a dealer in intangibles makes a fraudulent attempt to 72530  
evade the reporting or payment of the tax levied by division (D) 72531  
of section 5707.03 of the Revised Code, a penalty shall be imposed 72532  
equal to the greater of one thousand dollars or one hundred per 72533  
cent of the tax required to be shown on the report required by 72534  
section 5725.14 of the Revised Code. 72535

(5) If any person makes a false or fraudulent claim for 72536  
abatement or refund of the tax levied by division (D) of section 72537  
5707.03 of the Revised Code, a penalty shall be imposed equal to 72538  
the greater of one thousand dollars or one hundred per cent of the 72539  
claim. The penalty imposed by this division, any abatement or 72540  
refund on the claim, and interest on any refund from the date of 72541  
the refund, may be assessed under section 5725.15 of the Revised 72542  
Code or added by the ~~treasurer of state~~ tax commissioner as tax, 72543  
penalty, and interest due from the tax levied by division (D) of 72544  
section 5707.03 of the Revised Code, without regard to whether the 72545  
person making the claim is otherwise subject to the tax, and 72546  
without regard to any time limitation for assessment. 72547

(B) Each penalty imposed under division (A) of this section 72548  
shall be in addition to any other penalty imposed under that 72549  
division. All or part of any penalty imposed under division (A) of 72550  
this section may be abated by the commissioner ~~or the treasurer of~~ 72551

state, as appropriate. 72552

**Sec. 5725.22.** (A) The treasurer of state shall maintain an 72553  
intangible property tax list of taxes levied by section 5707.03 of 72554  
the Revised Code and certified by the tax commissioner pursuant to 72555  
sections 5711.13, 5725.08, 5725.16, and 5727.15 of the Revised 72556  
Code, and a separate list of taxes levied by section 5725.18 of 72557  
the Revised Code and certified by the superintendent of insurance 72558  
pursuant to section 5725.20 of the Revised Code. ~~Upon receipt of~~ 72559  
~~any assessment certified to him~~ 72560

(B)(1) With respect to taxes levied under section 5725.18 of 72561  
the Revised Code, the treasurer of state, upon receipt of an 72562  
assessment, shall compute the taxes at the rates prescribed by law 72563  
and enter the taxes on the proper tax list. ~~He~~ The treasurer shall 72564  
collect, and the taxpayer shall pay, all such taxes and any 72565  
interest applicable thereto. Payments may be made by mail, in 72566  
person, or by any other means authorized by the treasurer of 72567  
~~state.~~ The treasurer of ~~state~~ shall render a daily itemized 72568  
statement to the ~~tax commissioner~~ superintendent of insurance of 72569  
the amount of taxes collected and the name of the domestic 72570  
insurance company ~~or assessment certificate number of the person~~ 72571  
from whom collected. The treasurer of state may adopt rules 72572  
concerning the methods and timeliness of ~~payment~~ payments under 72573  
this division. 72574

(2) With respect to taxes levied under section 5707.03 of the 72575  
Revised Code, any assessment certified to the treasurer of state 72576  
shall reflect the taxes computed at the rates prescribed by law. 72577  
Upon receipt of such an assessment, the treasurer shall enter the 72578  
taxes on the proper tax list. The tax commissioner shall collect, 72579  
and the taxpayer shall pay, all such taxes and any interest 72580  
applicable thereto. Payments may be made by mail, in person, or by 72581  
any other means authorized by the commissioner. The commissioner 72582

shall immediately forward to the treasurer any payments received 72583  
under this division, together with any information necessary for 72584  
the treasurer to properly credit such payments. The commissioner 72585  
may adopt rules concerning the method and timeliness of payments 72586  
under this division. 72587

(C) Each tax bill issued pursuant to this section shall 72588  
separately reflect the taxes due, interest, if any, due date, and 72589  
any other information considered necessary. The last day on which 72590  
payment may be made without penalty shall be at least twenty but 72591  
not more than thirty days from the date of mailing the tax bill. 72592  
The treasurer of state or tax commissioner, as appropriate, shall 72593  
mail the tax bill, and the mailing thereof shall be prima-facie 72594  
evidence of receipt thereof by the taxpayer. 72595

The treasurer ~~of state~~ or commissioner, as appropriate, shall 72596  
refund taxes as provided in this section, but no refund shall be 72597  
made to a taxpayer having a delinquent claim certified pursuant to 72598  
this section that remains unpaid. The treasurer ~~of state~~ or 72599  
commissioner may consult the attorney general regarding such 72600  
claims. Refunds shall be paid from the tax refund fund created by 72601  
section 5703.052 of the Revised Code. 72602

~~(A)(D)(1)~~ Within twenty days after receipt of any preliminary 72603  
~~assessment certified to him~~ of taxes levied under section 5725.18 72604  
of the Revised Code, the treasurer of state shall issue a tax 72605  
bill, but if such preliminary assessment reflects a late filed tax 72606  
return, the treasurer of state shall add interest as provided in 72607  
division (A) of section 5725.221 of the Revised Code and issue a 72608  
tax bill. 72609

~~(B)(2)~~ Within twenty days after receipt of any amended or 72610  
final assessment ~~certified to him~~ of taxes levied under section 72611  
5725.18 of the Revised Code, the treasurer of state shall 72612  
ascertain the difference between the total taxes computed on such 72613  
assessment and the total taxes computed on the most recent 72614

assessment certified for the same tax year. If the difference is a 72615  
deficiency, the treasurer of state shall add interest as provided 72616  
in division (B)(1) of section 5725.221 of the Revised Code and 72617  
issue a tax bill. If the difference is an excess, the treasurer of 72618  
state shall add interest as provided in division (B)(2) of section 72619  
5725.221 of the Revised Code and certify the name of the taxpayer 72620  
and the amount to be refunded to the director of budget and 72621  
management for payment to the taxpayer. If the taxpayer has a 72622  
deficiency for one tax year and an excess for another tax year, or 72623  
any combination thereof for more than two tax years, the treasurer 72624  
of state may determine the net result after adding interest, if 72625  
applicable, and, depending on such result, proceed to mail a tax 72626  
bill or certify a refund. 72627

~~(C)~~(E)(1) Except as provided in division (E)(2) of this 72628  
section, within twenty days after certifying to the treasurer of 72629  
state an amended or final assessment, or a preliminary assessment 72630  
of a dealer in intangibles that has failed to file a report or 72631  
disclose taxable property, the tax commissioner shall ascertain 72632  
the difference between the total taxes computed on such assessment 72633  
and the total taxes computed on the most recent assessment 72634  
certified for the same tax year, if any. If the difference is a 72635  
deficiency, the commissioner shall add interest as provided in 72636  
division (B)(1) of section 5725.221 of the Revised Code and issue 72637  
a tax bill. If the difference is an excess, the commissioner shall 72638  
add interest as provided in division (B)(2) of section 5725.221 of 72639  
the Revised Code and certify the name of the taxpayer and the 72640  
amount to be refunded to the director of budget and management for 72641  
payment to the taxpayer. If the taxpayer has a deficiency for one 72642  
tax year and excess for another tax year, or any combination 72643  
thereof for more than two tax years, the commissioner may 72644  
determine the net result after adding interest, if applicable, 72645  
and, depending on such result, proceed to mail a tax bill or 72646  
certify a refund. 72647

(2) The tax commissioner may issue a tax bill for any 72648  
deficiency resulting from an assessment at the time the 72649  
commissioner issues the assessment. 72650

(F) If a taxpayer fails to pay all taxes and interest, if 72651  
any, on or before the due date shown on the tax bill but makes 72652  
payment within ten calendar days of such date, the treasurer of 72653  
state or tax commissioner, as appropriate, shall add a penalty 72654  
equal to five per cent of the taxes due. If payment is not made 72655  
within ten days of such date, the treasurer ~~of state~~ or 72656  
commissioner shall add a penalty equal to ten per cent of the 72657  
taxes due. The treasurer ~~of state~~ or commissioner shall prepare a 72658  
delinquent claim for each tax bill on which penalties were added 72659  
and certify such claims to the attorney general for collection. 72660  
The attorney general shall transmit a copy of each claim certified 72661  
by the treasurer to the ~~tax commissioner or the~~ superintendent of 72662  
insurance ~~and~~. For each claim certified by the treasurer or 72663  
commissioner, the attorney general shall proceed to collect the 72664  
delinquent taxes, penalties, and interest thereon in the manner 72665  
prescribed by law. 72666

**Sec. 5725.221.** For the purposes of this section, interest 72667  
shall be computed at a rate per calendar month, rounded to the 72668  
nearest one-hundredth of one per cent, equal to one-twelfth of the 72669  
rate per annum prescribed by section 5703.47 of the Revised Code 72670  
for the calendar year that includes the month for which the 72671  
interest accrues. 72672

(A) When taxes levied by section 3737.71, 5707.03, or 5725.18 72673  
of the Revised Code are assessed as the result of a tax return 72674  
being filed late, the treasurer of state or tax commissioner, as 72675  
appropriate, shall add interest to the taxes due. The interest 72676  
shall accrue from the first day of the month following the last 72677  
day on which such taxes were required to be paid, had the 72678

assessment been certified by the date prescribed, to the last day 72679  
of the month preceding the date on which the assessment was 72680  
certified, and shall be computed on the taxes due. 72681

(B) If an assessment has been certified pursuant to section 72682  
5711.13, 5725.08, 5725.16, 5725.20, or 5725.222 of the Revised 72683  
Code and an amended or final assessment is certified for the same 72684  
taxpayer and the same tax year, the treasurer of state or tax 72685  
commissioner, as appropriate, shall add interest to the deficiency 72686  
or excess. The interest shall be computed on the excess or 72687  
deficiency, and shall be accrued in the following manner: 72688

(1) On a deficiency, interest shall accrue from the first day 72689  
of the month following the last day on which the previous 72690  
assessment was required to be paid, to the last day of the month 72691  
preceding the date on which the amended or final assessment is 72692  
certified; 72693

(2) On an excess, interest shall be allowed from the first 72694  
day of the month following the date of payment of the previous 72695  
assessment, to the last day of the month preceding the date on 72696  
which the amended or final assessment is certified. 72697

**Sec. 5731.39.** (A) No corporation organized or existing under 72698  
the laws of this state shall transfer on its books or issue a new 72699  
certificate for any share of its capital stock registered in the 72700  
name of a decedent, or in trust for a decedent, or in the name of 72701  
a decedent and another person or persons, without the written 72702  
consent of the tax commissioner. 72703

(B) No safe deposit company, trust company, financial 72704  
institution as defined in division (A) of section 5725.01 of the 72705  
Revised Code or other corporation or person, having in possession, 72706  
control, or custody a deposit standing in the name of a decedent, 72707  
or in trust for a decedent, or in the name of a decedent and 72708  
another person or persons, shall deliver or transfer an amount in 72709

excess of three-fourths of the total value of such deposit, 72710  
including accrued interest and dividends, as of the date of 72711  
decedent's death, without the written consent of the tax 72712  
commissioner. The written consent of the tax commissioner need not 72713  
be obtained prior to the delivery or transfer of amounts having a 72714  
value of three-fourths or less of said total value. 72715

(C) No life insurance company shall pay the proceeds of an 72716  
annuity or matured endowment contract, or of a life insurance 72717  
contract payable to the estate of a decedent, or of any other 72718  
insurance contract taxable under Chapter 5731. of the Revised 72719  
Code, without the written consent of the tax commissioner. Any 72720  
life insurance company may pay the proceeds of any insurance 72721  
contract not specified in this division (C) without the written 72722  
consent of the tax commissioner. 72723

(D) No trust company or other corporation or person shall pay 72724  
the proceeds of any death benefit, retirement, pension or profit 72725  
sharing plan in excess of two thousand dollars, without the 72726  
written consent of the tax commissioner. Such trust company or 72727  
other corporation or person, however, may pay the proceeds of any 72728  
death benefit, retirement, pension, or profit-sharing plan which 72729  
consists of insurance on the life of the decedent payable to a 72730  
beneficiary other than the estate of the insured without the 72731  
written consent of the tax commissioner. 72732

(E) No safe deposit company, trust company, financial 72733  
institution as defined in division (A) of section 5725.01 of the 72734  
Revised Code, or other corporation or person, having in 72735  
possession, control, or custody securities, assets, or other 72736  
property (including the shares of the capital stock of, or other 72737  
interest in, such safe deposit company, trust company, financial 72738  
institution as defined in division (A) of section 5725.01 of the 72739  
Revised Code, or other corporation), standing in the name of a 72740  
decedent, or in trust for a decedent, or in the name of a decedent 72741

and another person or persons, and the transfer of which is 72742  
taxable under Chapter 5731. of the Revised Code, shall deliver or 72743  
transfer any such securities, assets, or other property which have 72744  
a value as of the date of decedent's death in excess of 72745  
three-fourths of the total value thereof, without the written 72746  
consent of the tax commissioner. The written consent of the tax 72747  
commissioner need not be obtained prior to the delivery or 72748  
transfer of any such securities, assets, or other property having 72749  
a value of three-fourths or less of said total value. 72750

(F) No safe deposit company, financial institution as defined 72751  
in division (A) of section 5725.01 of the Revised Code, or other 72752  
corporation or person having possession or control of a safe 72753  
deposit box or similar receptacle standing in the name of a 72754  
decedent or in the name of the decedent and another person or 72755  
persons, or to which the decedent had a right of access, except 72756  
when such safe deposit box or other receptacle stands in the name 72757  
of a corporation or partnership, or in the name of the decedent as 72758  
guardian or executor, shall deliver any of the contents thereof 72759  
unless the safe deposit box or similar receptacle has been opened 72760  
and inventoried in the presence of the tax commissioner or the 72761  
commissioner's agent, and a written consent to transfer issued; 72762  
provided, however, that a safe deposit company, financial 72763  
institution, or other corporation or person having possession or 72764  
control of a safe deposit box may deliver wills, deeds to burial 72765  
lots, and insurance policies to a representative of the decedent, 72766  
but that a representative of the safe deposit company, financial 72767  
institution, or other corporation or person must supervise the 72768  
opening of the box and make a written record of the wills, deeds, 72769  
and policies removed. Such written record shall be included in the 72770  
tax commissioner's inventory records. 72771

(G) Notwithstanding any provision of this section: 72772

(1) The tax commissioner may authorize any delivery or 72773

transfer or waive any of the foregoing requirements under such 72774  
terms and conditions as the commissioner may prescribe; 72775

(2) ~~An adult care facility, as defined in section 5119.70 of~~ 72776  
~~the Revised Code, or a~~ A home, as defined in section 3721.10 of 72777  
the Revised Code, or a residential facility licensed under section 72778  
5119.22 of the Revised Code that provides accommodations, 72779  
supervision, and personal care services for three to sixteen 72780  
unrelated adults, may transfer or use the money in a personal 72781  
needs allowance account in accordance with section 5111.113 of the 72782  
Revised Code without the written consent of the tax commissioner, 72783  
and without the account having been opened and inventoried in the 72784  
presence of the commissioner or the commissioner's agent. 72785

Failure to comply with this section shall render such safe 72786  
deposit company, trust company, life insurance company, financial 72787  
institution as defined in division (A) of section 5725.01 of the 72788  
Revised Code, or other corporation or person liable for the amount 72789  
of the taxes and interest due under the provisions of Chapter 72790  
5731. of the Revised Code on the transfer of such stock, deposit, 72791  
proceeds of an annuity or matured endowment contract or of a life 72792  
insurance contract payable to the estate of a decedent, or other 72793  
insurance contract taxable under Chapter 5731. of the Revised 72794  
Code, proceeds of any death benefit, retirement, pension, or 72795  
profit sharing plan in excess of two thousand dollars, or 72796  
securities, assets, or other property of any resident decedent, 72797  
and in addition thereto, to a penalty of not less than five 72798  
hundred or more than five thousand dollars. 72799

**Sec. 5733.064.** There is hereby allowed a credit against the 72800  
tax imposed under sections 5733.06, 5733.065, and 5733.066 of the 72801  
Revised Code. The credit shall equal the lesser of fifty per cent 72802  
of any cash donations made during the taxable year by the taxpayer 72803  
to an Ohio corporation organized prior to January 1, 1987, whose 72804

sole purpose is to promote and encourage recycling and that has 72805  
been determined by the internal revenue service to be a nonprofit 72806  
corporation regardless of whether the nonprofit corporation 72807  
received a grant under section ~~1502.05~~ 3736.05 of the Revised 72808  
Code, or to municipal corporations, counties, townships, park 72809  
districts, and boards of education that received grants pursuant 72810  
to that section, or one-half of the amount of the taxpayer's 72811  
additional tax liability for the tax year resulting from the 72812  
additional rates imposed by sections 5733.065 and 5733.066 of the 72813  
Revised Code to provide funding for ~~the division of~~ recycling and 72814  
litter prevention under Chapter ~~1502.~~ 3736. of the Revised Code. 72815  
The taxpayer shall claim the nonrefundable credit in the order 72816  
required under section 5733.98 of the Revised Code. 72817

The tax commissioner may require the taxpayer to furnish such 72818  
information as is necessary to support a claim for a credit under 72819  
this section, and no credit shall be allowed unless the 72820  
information is provided. 72821

**Sec. 5739.01.** As used in this chapter: 72822

(A) "Person" includes individuals, receivers, assignees, 72823  
trustees in bankruptcy, estates, firms, partnerships, 72824  
associations, joint-stock companies, joint ventures, clubs, 72825  
societies, corporations, the state and its political subdivisions, 72826  
and combinations of individuals of any form. 72827

(B) "Sale" and "selling" include all of the following 72828  
transactions for a consideration in any manner, whether absolutely 72829  
or conditionally, whether for a price or rental, in money or by 72830  
exchange, and by any means whatsoever: 72831

(1) All transactions by which title or possession, or both, 72832  
of tangible personal property, is or is to be transferred, or a 72833  
license to use or consume tangible personal property is or is to 72834  
be granted; 72835

|  |  |
|--|--|
| (2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;   | 72836<br>72837   |
| (3) All transactions by which:   | 72838  |
| (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;  | 72839<br>72840<br>72841  |
| (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;   | 72842<br>72843<br>72844<br>72845<br>72846<br>72847   |
| (c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;   | 72848<br>72849   |
| (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;  | 72850<br>72851<br>72852  |
| (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 | 72853<br>72854<br>72855<br>72856<br>72857<br>72858<br>72859<br>72860<br>72861<br>72862<br>72863<br>72864<br>72865<br>72866 |

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|---|--|
| per cent of the other corporation's common stock with voting rights.  | 72867<br>72868                                     |
| (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;  | 72869<br>72870<br>72871<br>72872                   |
| (g) Landscaping and lawn care service is or is to be provided;  | 72873<br>72874                                     |
| (h) Private investigation and security service is or is to be provided;   | 72875<br>72876                                     |
| (i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;  | 72877<br>72878                                     |
| (j) Building maintenance and janitorial service is or is to be provided;  | 72879<br>72880                                     |
| (k) Employment service is or is to be provided;   | 72881  |
| (l) Employment placement service is or is to be provided;   | 72882  |
| (m) Exterminating service is or is to be provided;  | 72883  |
| (n) Physical fitness facility service is or is to be provided;  | 72884<br>72885                                     |
| (o) Recreation and sports club service is or is to be provided;   | 72886<br>72887                                     |
| (p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;  | 72888<br>72889                                     |
| (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 | 72890<br>72891<br>72892<br>72893<br>72894<br>72895 |

order of a licensed physician or licensed chiropractor, or the 72896  
cutting, coloring, or styling of an individual's hair. 72897

(r) On and after August 1, 2003, the transportation of 72898  
persons by motor vehicle or aircraft is or is to be provided, when 72899  
the transportation is entirely within this state, except for 72900  
transportation provided by an ambulance service, by a transit bus, 72901  
as defined in section 5735.01 of the Revised Code, and 72902  
transportation provided by a citizen of the United States holding 72903  
a certificate of public convenience and necessity issued under 49 72904  
U.S.C. 41102; 72905

(s) On and after August 1, 2003, motor vehicle towing service 72906  
is or is to be provided. As used in this division, "motor vehicle 72907  
towing service" means the towing or conveyance of a wrecked, 72908  
disabled, or illegally parked motor vehicle. 72909

(t) On and after August 1, 2003, snow removal service is or 72910  
is to be provided. As used in this division, "snow removal 72911  
service" means the removal of snow by any mechanized means, but 72912  
does not include the providing of such service by a person that 72913  
has less than five thousand dollars in sales of such service 72914  
during the calendar year. 72915

(u) Electronic publishing service is or is to be provided to 72916  
a consumer for use in business, except that such transactions 72917  
occurring between members of an affiliated group, as defined in 72918  
division (B)(3)(e) of this section, are not sales. 72919

(4) All transactions by which printed, imprinted, 72920  
overprinted, lithographic, multilithic, blueprinted, photostatic, 72921  
or other productions or reproductions of written or graphic matter 72922  
are or are to be furnished or transferred; 72923

(5) The production or fabrication of tangible personal 72924  
property for a consideration for consumers who furnish either 72925  
directly or indirectly the materials used in the production of 72926

fabrication work; and include the furnishing, preparing, or 72927  
serving for a consideration of any tangible personal property 72928  
consumed on the premises of the person furnishing, preparing, or 72929  
serving such tangible personal property. Except as provided in 72930  
section 5739.03 of the Revised Code, a construction contract 72931  
pursuant to which tangible personal property is or is to be 72932  
incorporated into a structure or improvement on and becoming a 72933  
part of real property is not a sale of such tangible personal 72934  
property. The construction contractor is the consumer of such 72935  
tangible personal property, provided that the sale and 72936  
installation of carpeting, the sale and installation of 72937  
agricultural land tile, the sale and erection or installation of 72938  
portable grain bins, or the provision of landscaping and lawn care 72939  
service and the transfer of property as part of such service is 72940  
never a construction contract. 72941

As used in division (B)(5) of this section: 72942

(a) "Agricultural land tile" means fired clay or concrete 72943  
tile, or flexible or rigid perforated plastic pipe or tubing, 72944  
incorporated or to be incorporated into a subsurface drainage 72945  
system appurtenant to land used or to be used primarily in 72946  
production by farming, agriculture, horticulture, or floriculture. 72947  
The term does not include such materials when they are or are to 72948  
be incorporated into a drainage system appurtenant to a building 72949  
or structure even if the building or structure is used or to be 72950  
used in such production. 72951

(b) "Portable grain bin" means a structure that is used or to 72952  
be used by a person engaged in farming or agriculture to shelter 72953  
the person's grain and that is designed to be disassembled without 72954  
significant damage to its component parts. 72955

(6) All transactions in which all of the shares of stock of a 72956  
closely held corporation are transferred, if the corporation is 72957  
not engaging in business and its entire assets consist of boats, 72958

planes, motor vehicles, or other tangible personal property 72959  
operated primarily for the use and enjoyment of the shareholders; 72960

(7) All transactions in which a warranty, maintenance or 72961  
service contract, or similar agreement by which the vendor of the 72962  
warranty, contract, or agreement agrees to repair or maintain the 72963  
tangible personal property of the consumer is or is to be 72964  
provided; 72965

(8) The transfer of copyrighted motion picture films used 72966  
solely for advertising purposes, except that the transfer of such 72967  
films for exhibition purposes is not a sale; 72968

(9) On and after August 1, 2003, all transactions by which 72969  
tangible personal property is or is to be stored, except such 72970  
property that the consumer of the storage holds for sale in the 72971  
regular course of business; 72972

(10) All transactions in which "guaranteed auto protection" 72973  
is provided whereby a person promises to pay to the consumer the 72974  
difference between the amount the consumer receives from motor 72975  
vehicle insurance and the amount the consumer owes to a person 72976  
holding title to or a lien on the consumer's motor vehicle in the 72977  
event the consumer's motor vehicle suffers a total loss under the 72978  
terms of the motor vehicle insurance policy or is stolen and not 72979  
recovered, if the protection and its price are included in the 72980  
purchase or lease agreement; 72981

(11)(a) Except as provided in division (B)(11)(b) of this 72982  
section, on and after October 1, 2009, all transactions by which 72983  
health care services are paid for, reimbursed, provided, 72984  
delivered, arranged for, or otherwise made available by a medicaid 72985  
health insuring corporation pursuant to the corporation's contract 72986  
with the state. 72987

(b) If the centers for medicare and medicaid services of the 72988  
United States department of health and human services determines 72989

that the taxation of transactions described in division (B)(11)(a) 72990  
of this section constitutes an impermissible health care-related 72991  
tax under section 1903(w) of the "Social Security Act," 49 Stat. 72992  
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 72993  
adopted thereunder, the director of job and family services shall 72994  
notify the tax commissioner of that determination. Beginning with 72995  
the first day of the month following that notification, the 72996  
transactions described in division (B)(11)(a) of this section are 72997  
not sales for the purposes of this chapter or Chapter 5741. of the 72998  
Revised Code. The tax commissioner shall order that the collection 72999  
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 73000  
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 73001  
shall cease for transactions occurring on or after that date. 73002

Except as provided in this section, "sale" and "selling" do 73003  
not include transfers of interest in leased property where the 73004  
original lessee and the terms of the original lease agreement 73005  
remain unchanged, or professional, insurance, or personal service 73006  
transactions that involve the transfer of tangible personal 73007  
property as an inconsequential element, for which no separate 73008  
charges are made. 73009

(C) "Vendor" means the person providing the service or by 73010  
whom the transfer effected or license given by a sale is or is to 73011  
be made or given and, for sales described in division (B)(3)(i) of 73012  
this section, the telecommunications service vendor that provides 73013  
the nine hundred telephone service; if two or more persons are 73014  
engaged in business at the same place of business under a single 73015  
trade name in which all collections on account of sales by each 73016  
are made, such persons shall constitute a single vendor. 73017

Physicians, dentists, hospitals, and veterinarians who are 73018  
engaged in selling tangible personal property as received from 73019  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 73020  
articles, are vendors. Veterinarians who are engaged in 73021

transferring to others for a consideration drugs, the dispensing 73022  
of which does not require an order of a licensed veterinarian or 73023  
physician under federal law, are vendors. 73024

(D)(1) "Consumer" means the person for whom the service is 73025  
provided, to whom the transfer effected or license given by a sale 73026  
is or is to be made or given, to whom the service described in 73027  
division (B)(3)(f) or (i) of this section is charged, or to whom 73028  
the admission is granted. 73029

(2) Physicians, dentists, hospitals, and blood banks operated 73030  
by nonprofit institutions and persons licensed to practice 73031  
veterinary medicine, surgery, and dentistry are consumers of all 73032  
tangible personal property and services purchased by them in 73033  
connection with the practice of medicine, dentistry, the rendition 73034  
of hospital or blood bank service, or the practice of veterinary 73035  
medicine, surgery, and dentistry. In addition to being consumers 73036  
of drugs administered by them or by their assistants according to 73037  
their direction, veterinarians also are consumers of drugs that 73038  
under federal law may be dispensed only by or upon the order of a 73039  
licensed veterinarian or physician, when transferred by them to 73040  
others for a consideration to provide treatment to animals as 73041  
directed by the veterinarian. 73042

(3) A person who performs a facility management, or similar 73043  
service contract for a contractee is a consumer of all tangible 73044  
personal property and services purchased for use in connection 73045  
with the performance of such contract, regardless of whether title 73046  
to any such property vests in the contractee. The purchase of such 73047  
property and services is not subject to the exception for resale 73048  
under division (E)(1) of this section. 73049

(4)(a) In the case of a person who purchases printed matter 73050  
for the purpose of distributing it or having it distributed to the 73051  
public or to a designated segment of the public, free of charge, 73052  
that person is the consumer of that printed matter, and the 73053

purchase of that printed matter for that purpose is a sale. 73054

(b) In the case of a person who produces, rather than 73055  
purchases, printed matter for the purpose of distributing it or 73056  
having it distributed to the public or to a designated segment of 73057  
the public, free of charge, that person is the consumer of all 73058  
tangible personal property and services purchased for use or 73059  
consumption in the production of that printed matter. That person 73060  
is not entitled to claim exemption under division (B)(42)(f) of 73061  
section 5739.02 of the Revised Code for any material incorporated 73062  
into the printed matter or any equipment, supplies, or services 73063  
primarily used to produce the printed matter. 73064

(c) The distribution of printed matter to the public or to a 73065  
designated segment of the public, free of charge, is not a sale to 73066  
the members of the public to whom the printed matter is 73067  
distributed or to any persons who purchase space in the printed 73068  
matter for advertising or other purposes. 73069

(5) A person who makes sales of any of the services listed in 73070  
division (B)(3) of this section is the consumer of any tangible 73071  
personal property used in performing the service. The purchase of 73072  
that property is not subject to the resale exception under 73073  
division (E)(1) of this section. 73074

(6) A person who engages in highway transportation for hire 73075  
is the consumer of all packaging materials purchased by that 73076  
person and used in performing the service, except for packaging 73077  
materials sold by such person in a transaction separate from the 73078  
service. 73079

(7) In the case of a transaction for health care services 73080  
under division (B)(11) of this section, a medicaid health insuring 73081  
corporation is the consumer of such services. The purchase of such 73082  
services by a medicaid health insuring corporation is not subject 73083  
to the exception for resale under division (E)(1) of this section 73084

or to the exemptions provided under divisions (B)(12), (18), (19), 73085  
and (22) of section 5739.02 of the Revised Code. 73086

(E) "Retail sale" and "sales at retail" include all sales, 73087  
except those in which the purpose of the consumer is to resell the 73088  
thing transferred or benefit of the service provided, by a person 73089  
engaging in business, in the form in which the same is, or is to 73090  
be, received by the person. 73091

(F) "Business" includes any activity engaged in by any person 73092  
with the object of gain, benefit, or advantage, either direct or 73093  
indirect. "Business" does not include the activity of a person in 73094  
managing and investing the person's own funds. 73095

(G) "Engaging in business" means commencing, conducting, or 73096  
continuing in business, and liquidating a business when the 73097  
liquidator thereof holds itself out to the public as conducting 73098  
such business. Making a casual sale is not engaging in business. 73099

(H)(1)(a) "Price," except as provided in divisions (H)(2), 73100  
(3), and (4) of this section, means the total amount of 73101  
consideration, including cash, credit, property, and services, for 73102  
which tangible personal property or services are sold, leased, or 73103  
rented, valued in money, whether received in money or otherwise, 73104  
without any deduction for any of the following: 73105

(i) The vendor's cost of the property sold; 73106

(ii) The cost of materials used, labor or service costs, 73107  
interest, losses, all costs of transportation to the vendor, all 73108  
taxes imposed on the vendor, including the tax imposed under 73109  
Chapter 5751. of the Revised Code, and any other expense of the 73110  
vendor; 73111

(iii) Charges by the vendor for any services necessary to 73112  
complete the sale; 73113

(iv) On and after August 1, 2003, delivery charges. As used 73114

in this division, "delivery charges" means charges by the vendor 73115  
for preparation and delivery to a location designated by the 73116  
consumer of tangible personal property or a service, including 73117  
transportation, shipping, postage, handling, crating, and packing. 73118

(v) Installation charges; 73119

(vi) Credit for any trade-in. 73120

(b) "Price" includes consideration received by the vendor 73121  
from a third party, if the vendor actually receives the 73122  
consideration from a party other than the consumer, and the 73123  
consideration is directly related to a price reduction or discount 73124  
on the sale; the vendor has an obligation to pass the price 73125  
reduction or discount through to the consumer; the amount of the 73126  
consideration attributable to the sale is fixed and determinable 73127  
by the vendor at the time of the sale of the item to the consumer; 73128  
and one of the following criteria is met: 73129

(i) The consumer presents a coupon, certificate, or other 73130  
document to the vendor to claim a price reduction or discount 73131  
where the coupon, certificate, or document is authorized, 73132  
distributed, or granted by a third party with the understanding 73133  
that the third party will reimburse any vendor to whom the coupon, 73134  
certificate, or document is presented; 73135

(ii) The consumer identifies the consumer's self to the 73136  
seller as a member of a group or organization entitled to a price 73137  
reduction or discount. A preferred customer card that is available 73138  
to any patron does not constitute membership in such a group or 73139  
organization. 73140

(iii) The price reduction or discount is identified as a 73141  
third party price reduction or discount on the invoice received by 73142  
the consumer, or on a coupon, certificate, or other document 73143  
presented by the consumer. 73144

(c) "Price" does not include any of the following: 73145

(i) Discounts, including cash, term, or coupons that are not 73146  
reimbursed by a third party that are allowed by a vendor and taken 73147  
by a consumer on a sale; 73148

(ii) Interest, financing, and carrying charges from credit 73149  
extended on the sale of tangible personal property or services, if 73150  
the amount is separately stated on the invoice, bill of sale, or 73151  
similar document given to the purchaser; 73152

(iii) Any taxes legally imposed directly on the consumer that 73153  
are separately stated on the invoice, bill of sale, or similar 73154  
document given to the consumer. For the purpose of this division, 73155  
the tax imposed under Chapter 5751. of the Revised Code is not a 73156  
tax directly on the consumer, even if the tax or a portion thereof 73157  
is separately stated. 73158

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 73159  
section, any discount allowed by an automobile manufacturer to its 73160  
employee, or to the employee of a supplier, on the purchase of a 73161  
new motor vehicle from a new motor vehicle dealer in this state. 73162

(v) The dollar value of a gift card that is not sold by a 73163  
vendor or purchased by a consumer and that is redeemed by the 73164  
consumer in purchasing tangible personal property or services if 73165  
the vendor is not reimbursed and does not receive compensation 73166  
from a third party to cover all or part of the gift card value. 73167  
For the purposes of this division, a gift card is not sold by a 73168  
vendor or purchased by a consumer if it is distributed pursuant to 73169  
an awards, loyalty, or promotional program. Past and present 73170  
purchases of tangible personal property or services by the 73171  
consumer shall not be treated as consideration exchanged for a 73172  
gift card. 73173

(2) In the case of a sale of any new motor vehicle by a new 73174  
motor vehicle dealer, as defined in section 4517.01 of the Revised 73175  
Code, in which another motor vehicle is accepted by the dealer as 73176

part of the consideration received, "price" has the same meaning 73177  
as in division (H)(1) of this section, reduced by the credit 73178  
afforded the consumer by the dealer for the motor vehicle received 73179  
in trade. 73180

(3) In the case of a sale of any watercraft or outboard motor 73181  
by a watercraft dealer licensed in accordance with section 73182  
1547.543 of the Revised Code, in which another watercraft, 73183  
watercraft and trailer, or outboard motor is accepted by the 73184  
dealer as part of the consideration received, "price" has the same 73185  
meaning as in division (H)(1) of this section, reduced by the 73186  
credit afforded the consumer by the dealer for the watercraft, 73187  
watercraft and trailer, or outboard motor received in trade. As 73188  
used in this division, "watercraft" includes an outdrive unit 73189  
attached to the watercraft. 73190

(4) In the case of transactions for health care services 73191  
under division (B)(11) of this section, "price" means the amount 73192  
of managed care premiums received each month by a medicaid health 73193  
insuring corporation. 73194

(I) "Receipts" means the total amount of the prices of the 73195  
sales of vendors, provided that the dollar value of gift cards 73196  
distributed pursuant to an awards, loyalty, or promotional 73197  
program, and cash discounts allowed and taken on sales at the time 73198  
they are consummated are not included, minus any amount deducted 73199  
as a bad debt pursuant to section 5739.121 of the Revised Code. 73200  
"Receipts" does not include the sale price of property returned or 73201  
services rejected by consumers when the full sale price and tax 73202  
are refunded either in cash or by credit. 73203

(J) "Place of business" means any location at which a person 73204  
engages in business. 73205

(K) "Premises" includes any real property or portion thereof 73206  
upon which any person engages in selling tangible personal 73207

property at retail or making retail sales and also includes any 73208  
real property or portion thereof designated for, or devoted to, 73209  
use in conjunction with the business engaged in by such person. 73210

(L) "Casual sale" means a sale of an item of tangible 73211  
personal property that was obtained by the person making the sale, 73212  
through purchase or otherwise, for the person's own use and was 73213  
previously subject to any state's taxing jurisdiction on its sale 73214  
or use, and includes such items acquired for the seller's use that 73215  
are sold by an auctioneer employed directly by the person for such 73216  
purpose, provided the location of such sales is not the 73217  
auctioneer's permanent place of business. As used in this 73218  
division, "permanent place of business" includes any location 73219  
where such auctioneer has conducted more than two auctions during 73220  
the year. 73221

(M) "Hotel" means every establishment kept, used, maintained, 73222  
advertised, or held out to the public to be a place where sleeping 73223  
accommodations are offered to guests, in which five or more rooms 73224  
are used for the accommodation of such guests, whether the rooms 73225  
are in one or several structures, except as otherwise provided in 73226  
division (G) of section 5739.09 of the Revised Code. 73227

(N) "Transient guests" means persons occupying a room or 73228  
rooms for sleeping accommodations for less than thirty consecutive 73229  
days. 73230

(O) "Making retail sales" means the effecting of transactions 73231  
wherein one party is obligated to pay the price and the other 73232  
party is obligated to provide a service or to transfer title to or 73233  
possession of the item sold. "Making retail sales" does not 73234  
include the preliminary acts of promoting or soliciting the retail 73235  
sales, other than the distribution of printed matter which 73236  
displays or describes and prices the item offered for sale, nor 73237  
does it include delivery of a predetermined quantity of tangible 73238  
personal property or transportation of property or personnel to or 73239

from a place where a service is performed, regardless of whether 73240  
the vendor is a delivery vendor. 73241

(P) "Used directly in the rendition of a public utility 73242  
service" means that property that is to be incorporated into and 73243  
will become a part of the consumer's production, transmission, 73244  
transportation, or distribution system and that retains its 73245  
classification as tangible personal property after such 73246  
incorporation; fuel or power used in the production, transmission, 73247  
transportation, or distribution system; and tangible personal 73248  
property used in the repair and maintenance of the production, 73249  
transmission, transportation, or distribution system, including 73250  
only such motor vehicles as are specially designed and equipped 73251  
for such use. Tangible personal property and services used 73252  
primarily in providing highway transportation for hire are not 73253  
used directly in the rendition of a public utility service. In 73254  
this definition, "public utility" includes a citizen of the United 73255  
States holding, and required to hold, a certificate of public 73256  
convenience and necessity issued under 49 U.S.C. 41102. 73257

(Q) "Refining" means removing or separating a desirable 73258  
product from raw or contaminated materials by distillation or 73259  
physical, mechanical, or chemical processes. 73260

(R) "Assembly" and "assembling" mean attaching or fitting 73261  
together parts to form a product, but do not include packaging a 73262  
product. 73263

(S) "Manufacturing operation" means a process in which 73264  
materials are changed, converted, or transformed into a different 73265  
state or form from which they previously existed and includes 73266  
refining materials, assembling parts, and preparing raw materials 73267  
and parts by mixing, measuring, blending, or otherwise committing 73268  
such materials or parts to the manufacturing process. 73269  
"Manufacturing operation" does not include packaging. 73270

(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 73302  
together with verification thereof, or providing access to 73303  
computer equipment for the purpose of processing data. 73304

(b) "Computer services" means providing services consisting 73305  
of specifying computer hardware configurations and evaluating 73306  
technical processing characteristics, computer programming, and 73307  
training of computer programmers and operators, provided in 73308  
conjunction with and to support the sale, lease, or operation of 73309  
taxable computer equipment or systems. 73310

(c) "Electronic information services" means providing access 73311  
to computer equipment by means of telecommunications equipment for 73312  
the purpose of either of the following: 73313

(i) Examining or acquiring data stored in or accessible to 73314  
the computer equipment; 73315

(ii) Placing data into the computer equipment to be retrieved 73316  
by designated recipients with access to the computer equipment. 73317

For transactions occurring on or after the effective date of 73318  
the amendment of this section by H.B. 157 of the 127th general 73319  
assembly, December 21, 2007, "electronic information services" 73320  
does not include electronic publishing as defined in division 73321  
(LLL) of this section. 73322

(d) "Automatic data processing, computer services, or 73323  
electronic information services" shall not include personal or 73324  
professional services. 73325

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 73326  
section, "personal and professional services" means all services 73327  
other than automatic data processing, computer services, or 73328  
electronic information services, including but not limited to: 73329

(a) Accounting and legal services such as advice on tax 73330  
matters, asset management, budgetary matters, quality control, 73331

information security, and auditing and any other situation where 73332  
the service provider receives data or information and studies, 73333  
alters, analyzes, interprets, or adjusts such material; 73334

(b) Analyzing business policies and procedures; 73335

(c) Identifying management information needs; 73336

(d) Feasibility studies, including economic and technical 73337  
analysis of existing or potential computer hardware or software 73338  
needs and alternatives; 73339

(e) Designing policies, procedures, and custom software for 73340  
collecting business information, and determining how data should 73341  
be summarized, sequenced, formatted, processed, controlled, and 73342  
reported so that it will be meaningful to management; 73343

(f) Developing policies and procedures that document how 73344  
business events and transactions are to be authorized, executed, 73345  
and controlled; 73346

(g) Testing of business procedures; 73347

(h) Training personnel in business procedure applications; 73348

(i) Providing credit information to users of such information 73349  
by a consumer reporting agency, as defined in the "Fair Credit 73350  
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or 73351  
as hereafter amended, including but not limited to gathering, 73352  
organizing, analyzing, recording, and furnishing such information 73353  
by any oral, written, graphic, or electronic medium; 73354

(j) Providing debt collection services by any oral, written, 73355  
graphic, or electronic means. 73356

The services listed in divisions (Y)(2)(a) to (j) of this 73357  
section are not automatic data processing or computer services. 73358

(Z) "Highway transportation for hire" means the 73359  
transportation of personal property belonging to others for 73360  
consideration by any of the following: 73361

(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;

|   |  |
|---|--|
| (b) Installation or maintenance of wiring or equipment on a customer's premises;  | 73393<br>73394   |
| (c) Tangible personal property;   | 73395  |
| (d) Advertising, including directory advertising;   | 73396  |
| (e) Billing and collection services provided to third parties;  | 73397<br>73398   |
| (f) Internet access service;  | 73399  |
| (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; | 73400<br>73401<br>73402<br>73403<br>73404<br>73405<br>73406<br>73407 |
| (h) Ancillary service;  | 73408  |
| (i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.  | 73409<br>73410   |
| (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:   | 73411<br>73412<br>73413<br>73414<br>73415                            |
| (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.  | 73416<br>73417<br>73418<br>73419<br>73420                            |
| (b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to  | 73421<br>73422   |

individual calls on a customer's billing statement. 73423

(c) "Directory assistance" means an ancillary service of 73424  
providing telephone number or address information. 73425

(d) "Vertical service" means an ancillary service that is 73426  
offered in connection with one or more telecommunications 73427  
services, which offers advanced calling features that allow 73428  
customers to identify callers and manage multiple calls and call 73429  
connections, including conference bridging service. 73430

(e) "Voice mail service" means an ancillary service that 73431  
enables the customer to store, send, or receive recorded messages. 73432  
"Voice mail service" does not include any vertical services that 73433  
the customer may be required to have in order to utilize the voice 73434  
mail service. 73435

(3) "900 service" means an inbound toll telecommunications 73436  
service purchased by a subscriber that allows the subscriber's 73437  
customers to call in to the subscriber's prerecorded announcement 73438  
or live service, and which is typically marketed under the name 73439  
"900" service and any subsequent numbers designated by the federal 73440  
communications commission. "900 service" does not include the 73441  
charge for collection services provided by the seller of the 73442  
telecommunications service to the subscriber, or services or 73443  
products sold by the subscriber to the subscriber's customer. 73444

(4) "Prepaid calling service" means the right to access 73445  
exclusively telecommunications services, which must be paid for in 73446  
advance and which enables the origination of calls using an access 73447  
number or authorization code, whether manually or electronically 73448  
dialed, and that is sold in predetermined units of ~~of~~ or dollars of 73449  
which the number declines with use in a known amount. 73450

(5) "Prepaid wireless calling service" means a 73451  
telecommunications service that provides the right to utilize 73452  
mobile telecommunications service as well as other 73453

non-telecommunications services, including the download of digital 73454  
products delivered electronically, and content and ancillary 73455  
services, that must be paid for in advance and that is sold in 73456  
predetermined units ~~of~~ or dollars of which the number declines 73457  
with use in a known amount. 73458

(6) "Value-added non-voice data service" means a 73459  
telecommunications service in which computer processing 73460  
applications are used to act on the form, content, code, or 73461  
protocol of the information or data primarily for a purpose other 73462  
than transmission, conveyance, or routing. 73463

(7) "Coin-operated telephone service" means a 73464  
telecommunications service paid for by inserting money into a 73465  
telephone accepting direct deposits of money to operate. 73466

(8) "Customer" has the same meaning as in section 5739.034 of 73467  
the Revised Code. 73468

(BB) "Laundry and dry cleaning services" means removing soil 73469  
or dirt from towels, linens, articles of clothing, or other fabric 73470  
items that belong to others and supplying towels, linens, articles 73471  
of clothing, or other fabric items. "Laundry and dry cleaning 73472  
services" does not include the provision of self-service 73473  
facilities for use by consumers to remove soil or dirt from 73474  
towels, linens, articles of clothing, or other fabric items. 73475

(CC) "Magazines distributed as controlled circulation 73476  
publications" means magazines containing at least twenty-four 73477  
pages, at least twenty-five per cent editorial content, issued at 73478  
regular intervals four or more times a year, and circulated 73479  
without charge to the recipient, provided that such magazines are 73480  
not owned or controlled by individuals or business concerns which 73481  
conduct such publications as an auxiliary to, and essentially for 73482  
the advancement of the main business or calling of, those who own 73483  
or control them. 73484

(DD) "Landscaping and lawn care service" means the services 73485  
of planting, seeding, sodding, removing, cutting, trimming, 73486  
pruning, mulching, aerating, applying chemicals, watering, 73487  
fertilizing, and providing similar services to establish, promote, 73488  
or control the growth of trees, shrubs, flowers, grass, ground 73489  
cover, and other flora, or otherwise maintaining a lawn or 73490  
landscape grown or maintained by the owner for ornamentation or 73491  
other nonagricultural purpose. However, "landscaping and lawn care 73492  
service" does not include the providing of such services by a 73493  
person who has less than five thousand dollars in sales of such 73494  
services during the calendar year. 73495

(EE) "Private investigation and security service" means the 73496  
performance of any activity for which the provider of such service 73497  
is required to be licensed pursuant to Chapter 4749. of the 73498  
Revised Code, or would be required to be so licensed in performing 73499  
such services in this state, and also includes the services of 73500  
conducting polygraph examinations and of monitoring or overseeing 73501  
the activities on or in, or the condition of, the consumer's home, 73502  
business, or other facility by means of electronic or similar 73503  
monitoring devices. "Private investigation and security service" 73504  
does not include special duty services provided by off-duty police 73505  
officers, deputy sheriffs, and other peace officers regularly 73506  
employed by the state or a political subdivision. 73507

(FF) "Information services" means providing conversation, 73508  
giving consultation or advice, playing or making a voice or other 73509  
recording, making or keeping a record of the number of callers, 73510  
and any other service provided to a consumer by means of a nine 73511  
hundred telephone call, except when the nine hundred telephone 73512  
call is the means by which the consumer makes a contribution to a 73513  
recognized charity. 73514

(GG) "Research and development" means designing, creating, or 73515  
formulating new or enhanced products, equipment, or manufacturing 73516

processes, and also means conducting scientific or technological 73517  
inquiry and experimentation in the physical sciences with the goal 73518  
of increasing scientific knowledge which may reveal the bases for 73519  
new or enhanced products, equipment, or manufacturing processes. 73520

(HH) "Qualified research and development equipment" means 73521  
capitalized tangible personal property, and leased personal 73522  
property that would be capitalized if purchased, used by a person 73523  
primarily to perform research and development. Tangible personal 73524  
property primarily used in testing, as defined in division (A)(4) 73525  
of section 5739.011 of the Revised Code, or used for recording or 73526  
storing test results, is not qualified research and development 73527  
equipment unless such property is primarily used by the consumer 73528  
in testing the product, equipment, or manufacturing process being 73529  
created, designed, or formulated by the consumer in the research 73530  
and development activity or in recording or storing such test 73531  
results. 73532

(II) "Building maintenance and janitorial service" means 73533  
cleaning the interior or exterior of a building and any tangible 73534  
personal property located therein or thereon, including any 73535  
services incidental to such cleaning for which no separate charge 73536  
is made. However, "building maintenance and janitorial service" 73537  
does not include the providing of such service by a person who has 73538  
less than five thousand dollars in sales of such service during 73539  
the calendar year. 73540

(JJ) "Employment service" means providing or supplying 73541  
personnel, on a temporary or long-term basis, to perform work or 73542  
labor under the supervision or control of another, when the 73543  
personnel so provided or supplied receive their wages, salary, or 73544  
other compensation from the provider or supplier of the employment 73545  
service or from a third party that provided or supplied the 73546  
personnel to the provider or supplier. "Employment service" does 73547  
not include: 73548

- (1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser. 73549  
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- (2) Medical and health care services. 73552
- (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. 73553  
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- (4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section. 73557  
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- (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. 73559  
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- (KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position. 73564  
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- (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. 73567  
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- (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. 73572  
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(NN) "Recreation and sports club service" means all 73579  
transactions by which a membership is granted, maintained, or 73580  
renewed, including initiation fees, membership dues, renewal fees, 73581  
monthly minimum fees, and other similar fees and dues, by a 73582  
recreation and sports club, which entitles the member to use the 73583  
facilities of the organization. "Recreation and sports club" means 73584  
an organization that has ownership of, or controls or leases on a 73585  
continuing, long-term basis, the facilities used by its members 73586  
and includes an aviation club, gun or shooting club, yacht club, 73587  
card club, swimming club, tennis club, golf club, country club, 73588  
riding club, amateur sports club, or similar organization. 73589

(OO) "Livestock" means farm animals commonly raised for food, 73590  
food production, or other agricultural purposes, including, but 73591  
not limited to, cattle, sheep, goats, swine, poultry, and captive 73592  
deer. "Livestock" does not include invertebrates, amphibians, 73593  
reptiles, domestic pets, animals for use in laboratories or for 73594  
exhibition, or other animals not commonly raised for food or food 73595  
production. 73596

(PP) "Livestock structure" means a building or structure used 73597  
exclusively for the housing, raising, feeding, or sheltering of 73598  
livestock, and includes feed storage or handling structures and 73599  
structures for livestock waste handling. 73600

(QQ) "Horticulture" means the growing, cultivation, and 73601  
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 73602  
and nursery stock. As used in this division, "nursery stock" has 73603  
the same meaning as in section 927.51 of the Revised Code. 73604

(RR) "Horticulture structure" means a building or structure 73605  
used exclusively for the commercial growing, raising, or 73606  
overwintering of horticultural products, and includes the area 73607  
used for stocking, storing, and packing horticultural products 73608  
when done in conjunction with the production of those products. 73609

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where

the amount of consideration may be increased or decreased by 73642  
reference to the amount realized upon the sale or disposition of 73643  
the property. "Lease" or "rental" does not include: 73644

(a) A transfer of possession or control of tangible personal 73645  
property under a security agreement or a deferred payment plan 73646  
that requires the transfer of title upon completion of the 73647  
required payments; 73648

(b) A transfer of possession or control of tangible personal 73649  
property under an agreement that requires the transfer of title 73650  
upon completion of required payments and payment of an option 73651  
price that does not exceed the greater of one hundred dollars or 73652  
one per cent of the total required payments; 73653

(c) Providing tangible personal property along with an 73654  
operator for a fixed or indefinite period of time, if the operator 73655  
is necessary for the property to perform as designed. For purposes 73656  
of this division, the operator must do more than maintain, 73657  
inspect, or set-up the tangible personal property. 73658

(2) "Lease" and "rental," as defined in division (UU) of this 73659  
section, shall not apply to leases or rentals that exist before 73660  
June 26, 2003. 73661

(3) "Lease" and "rental" have the same meaning as in division 73662  
(UU)(1) of this section regardless of whether a transaction is 73663  
characterized as a lease or rental under generally accepted 73664  
accounting principles, the Internal Revenue Code, Title XIII of 73665  
the Revised Code, or other federal, state, or local laws. 73666

(VV) "Mobile telecommunications service" has the same meaning 73667  
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 73668  
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 73669  
on and after August 1, 2003, includes related fees and ancillary 73670  
services, including universal service fees, detailed billing 73671  
service, directory assistance, service initiation, voice mail 73672

service, and vertical services, such as caller ID and three-way calling. 73673  
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(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code. 73675  
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(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service. 73677  
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(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software. 73686  
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(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address. 73692  
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(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a 73702  
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result based on a sequence of instructions. 73704

(BBB) "Computer software" means a set of coded instructions 73705  
designed to cause a computer or automatic data processing 73706  
equipment to perform a task. 73707

(CCC) "Delivered electronically" means delivery of computer 73708  
software from the seller to the purchaser by means other than 73709  
tangible storage media. 73710

(DDD) "Prewritten computer software" means computer software, 73711  
including prewritten upgrades, that is not designed and developed 73712  
by the author or other creator to the specifications of a specific 73713  
purchaser. The combining of two or more prewritten computer 73714  
software programs or prewritten portions thereof does not cause 73715  
the combination to be other than prewritten computer software. 73716  
"Prewritten computer software" includes software designed and 73717  
developed by the author or other creator to the specifications of 73718  
a specific purchaser when it is sold to a person other than the 73719  
purchaser. If a person modifies or enhances computer software of 73720  
which the person is not the author or creator, the person shall be 73721  
deemed to be the author or creator only of such person's 73722  
modifications or enhancements. Prewritten computer software or a 73723  
prewritten portion thereof that is modified or enhanced to any 73724  
degree, where such modification or enhancement is designed and 73725  
developed to the specifications of a specific purchaser, remains 73726  
prewritten computer software; provided, however, that where there 73727  
is a reasonable, separately stated charge or an invoice or other 73728  
statement of the price given to the purchaser for the modification 73729  
or enhancement, the modification or enhancement shall not 73730  
constitute prewritten computer software. 73731

(EEE)(1) "Food" means substances, whether in liquid, 73732  
concentrated, solid, frozen, dried, or dehydrated form, that are 73733  
sold for ingestion or chewing by humans and are consumed for their 73734  
taste or nutritional value. "Food" does not include alcoholic 73735

beverages, dietary supplements, soft drinks, or tobacco. 73736

(2) As used in division (EEE)(1) of this section: 73737

(a) "Alcoholic beverages" means beverages that are suitable 73738  
for human consumption and contain one-half of one per cent or more 73739  
of alcohol by volume. 73740

(b) "Dietary supplements" means any product, other than 73741  
tobacco, that is intended to supplement the diet and that is 73742  
intended for ingestion in tablet, capsule, powder, softgel, 73743  
gelcap, or liquid form, or, if not intended for ingestion in such 73744  
a form, is not represented as conventional food for use as a sole 73745  
item of a meal or of the diet; that is required to be labeled as a 73746  
dietary supplement, identifiable by the "supplement facts" box 73747  
found on the label, as required by 21 C.F.R. 101.36; and that 73748  
contains one or more of the following dietary ingredients: 73749

(i) A vitamin; 73750

(ii) A mineral; 73751

(iii) An herb or other botanical; 73752

(iv) An amino acid; 73753

(v) A dietary substance for use by humans to supplement the 73754  
diet by increasing the total dietary intake; 73755

(vi) A concentrate, metabolite, constituent, extract, or 73756  
combination of any ingredient described in divisions 73757  
(EEE)(2)(b)(i) to (v) of this section. 73758

(c) "Soft drinks" means nonalcoholic beverages that contain 73759  
natural or artificial sweeteners. "Soft drinks" does not include 73760  
beverages that contain milk or milk products, soy, rice, or 73761  
similar milk substitutes, or that contains greater than fifty per 73762  
cent vegetable or fruit juice by volume. 73763

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 73764  
tobacco, or any other item that contains tobacco. 73765

(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 73798  
or malfunction, or support a weak or deformed portion of the body. 73799  
As used in this division, "prosthetic device" does not include 73800  
corrective eyeglasses, contact lenses, or dental prosthesis. 73801

(KKK)(1) "Fractional aircraft ownership program" means a 73802  
program in which persons within an affiliated group sell and 73803  
manage fractional ownership program aircraft, provided that at 73804  
least one hundred airworthy aircraft are operated in the program 73805  
and the program meets all of the following criteria: 73806

(a) Management services are provided by at least one program 73807  
manager within an affiliated group on behalf of the fractional 73808  
owners. 73809

(b) Each program aircraft is owned or possessed by at least 73810  
one fractional owner. 73811

(c) Each fractional owner owns or possesses at least a 73812  
one-sixteenth interest in at least one fixed-wing program 73813  
aircraft. 73814

(d) A dry-lease aircraft interchange arrangement is in effect 73815  
among all of the fractional owners. 73816

(e) Multi-year program agreements are in effect regarding the 73817  
fractional ownership, management services, and dry-lease aircraft 73818  
interchange arrangement aspects of the program. 73819

(2) As used in division (KKK)(1) of this section: 73820

(a) "Affiliated group" has the same meaning as in division 73821  
(B)(3)(e) of this section. 73822

(b) "Fractional owner" means a person that owns or possesses 73823  
at least a one-sixteenth interest in a program aircraft and has 73824  
entered into the agreements described in division (KKK)(1)(e) of 73825  
this section. 73826

(c) "Fractional ownership program aircraft" or "program 73827

aircraft" means a turbojet aircraft that is owned or possessed by 73828  
a fractional owner and that has been included in a dry-lease 73829  
aircraft interchange arrangement and agreement under divisions 73830  
(KKK)(1)(d) and (e) of this section, or an aircraft a program 73831  
manager owns or possesses primarily for use in a fractional 73832  
aircraft ownership program. 73833

(d) "Management services" means administrative and aviation 73834  
support services furnished under a fractional aircraft ownership 73835  
program in accordance with a management services agreement under 73836  
division (KKK)(1)(e) of this section, and offered by the program 73837  
manager to the fractional owners, including, at a minimum, the 73838  
establishment and implementation of safety guidelines; the 73839  
coordination of the scheduling of the program aircraft and crews; 73840  
program aircraft maintenance; program aircraft insurance; crew 73841  
training for crews employed, furnished, or contracted by the 73842  
program manager or the fractional owner; the satisfaction of 73843  
record-keeping requirements; and the development and use of an 73844  
operations manual and a maintenance manual for the fractional 73845  
aircraft ownership program. 73846

(e) "Program manager" means the person that offers management 73847  
services to fractional owners pursuant to a management services 73848  
agreement under division (KKK)(1)(e) of this section. 73849

(LLL) "Electronic publishing" means providing access to one 73850  
or more of the following primarily for business customers, 73851  
including the federal government or a state government or a 73852  
political subdivision thereof, to conduct research: news; 73853  
business, financial, legal, consumer, or credit materials; 73854  
editorials, columns, reader commentary, or features; photos or 73855  
images; archival or research material; legal notices, identity 73856  
verification, or public records; scientific, educational, 73857  
instructional, technical, professional, trade, or other literary 73858  
materials; or other similar information which has been gathered 73859

and made available by the provider to the consumer in an 73860  
electronic format. Providing electronic publishing includes the 73861  
functions necessary for the acquisition, formatting, editing, 73862  
storage, and dissemination of data or information that is the 73863  
subject of a sale. 73864

(MMM) "Medicaid health insuring corporation" means a health 73865  
insuring corporation that holds a certificate of authority under 73866  
Chapter 1751. of the Revised Code and is under contract with the 73867  
department of job and family services pursuant to section 5111.17 73868  
of the Revised Code. 73869

(NNN) "Managed care premium" means any premium, capitation, 73870  
or other payment a medicaid health insuring corporation receives 73871  
for providing or arranging for the provision of health care 73872  
services to its members or enrollees residing in this state. 73873

(OOO) "Captive deer" means deer and other cervidae that have 73874  
been legally acquired, or their offspring, that are privately 73875  
owned for agricultural or farming purposes. 73876

(PPP) "Gift card" means a document, card, certificate, or 73877  
other record, whether tangible or intangible, that may be redeemed 73878  
by a consumer for a dollar value when making a purchase of 73879  
tangible personal property or services. 73880

**Sec. 5739.02.** For the purpose of providing revenue with which 73881  
to meet the needs of the state, for the use of the general revenue 73882  
fund of the state, for the purpose of securing a thorough and 73883  
efficient system of common schools throughout the state, for the 73884  
purpose of affording revenues, in addition to those from general 73885  
property taxes, permitted under constitutional limitations, and 73886  
from other sources, for the support of local governmental 73887  
functions, and for the purpose of reimbursing the state for the 73888  
expense of administering this chapter, an excise tax is hereby 73889  
levied on each retail sale made in this state. 73890

(A)(1) The tax shall be collected as provided in section 73891  
5739.025 of the Revised Code. The rate of the tax shall be five 73892  
and one-half per cent. The tax applies and is collectible when the 73893  
sale is made, regardless of the time when the price is paid or 73894  
delivered. 73895

(2) In the case of the lease or rental, with a fixed term of 73896  
more than thirty days or an indefinite term with a minimum period 73897  
of more than thirty days, of any motor vehicles designed by the 73898  
manufacturer to carry a load of not more than one ton, watercraft, 73899  
outboard motor, or aircraft, or of any tangible personal property, 73900  
other than motor vehicles designed by the manufacturer to carry a 73901  
load of more than one ton, to be used by the lessee or renter 73902  
primarily for business purposes, the tax shall be collected by the 73903  
vendor at the time the lease or rental is consummated and shall be 73904  
calculated by the vendor on the basis of the total amount to be 73905  
paid by the lessee or renter under the lease agreement. If the 73906  
total amount of the consideration for the lease or rental includes 73907  
amounts that are not calculated at the time the lease or rental is 73908  
executed, the tax shall be calculated and collected by the vendor 73909  
at the time such amounts are billed to the lessee or renter. In 73910  
the case of an open-end lease or rental, the tax shall be 73911  
calculated by the vendor on the basis of the total amount to be 73912  
paid during the initial fixed term of the lease or rental, and for 73913  
each subsequent renewal period as it comes due. As used in this 73914  
division, "motor vehicle" has the same meaning as in section 73915  
4501.01 of the Revised Code, and "watercraft" includes an outdrive 73916  
unit attached to the watercraft. 73917

A lease with a renewal clause and a termination penalty or 73918  
similar provision that applies if the renewal clause is not 73919  
exercised is presumed to be a sham transaction. In such a case, 73920  
the tax shall be calculated and paid on the basis of the entire 73921  
length of the lease period, including any renewal periods, until 73922

the termination penalty or similar provision no longer applies. 73923  
The taxpayer shall bear the burden, by a preponderance of the 73924  
evidence, that the transaction or series of transactions is not a 73925  
sham transaction. 73926

(3) Except as provided in division (A)(2) of this section, in 73927  
the case of a sale, the price of which consists in whole or in 73928  
part of the lease or rental of tangible personal property, the tax 73929  
shall be measured by the installments of that lease or rental. 73930

(4) In the case of a sale of a physical fitness facility 73931  
service or recreation and sports club service, the price of which 73932  
consists in whole or in part of a membership for the receipt of 73933  
the benefit of the service, the tax applicable to the sale shall 73934  
be measured by the installments thereof. 73935

(B) The tax does not apply to the following: 73936

(1) Sales to the state or any of its political subdivisions, 73937  
or to any other state or its political subdivisions if the laws of 73938  
that state exempt from taxation sales made to this state and its 73939  
political subdivisions; 73940

(2) Sales of food for human consumption off the premises 73941  
where sold; 73942

(3) Sales of food sold to students only in a cafeteria, 73943  
dormitory, fraternity, or sorority maintained in a private, 73944  
public, or parochial school, college, or university; 73945

(4) Sales of newspapers and of magazine subscriptions and 73946  
sales or transfers of magazines distributed as controlled 73947  
circulation publications; 73948

(5) The furnishing, preparing, or serving of meals without 73949  
charge by an employer to an employee provided the employer records 73950  
the meals as part compensation for services performed or work 73951  
done; 73952

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided

in division (B)(9)(b) of this section. If the number of days on 73985  
which such sales are made exceeds six in any calendar year, the 73986  
church or organization shall be considered to be engaged in 73987  
business and all subsequent sales by it shall be subject to the 73988  
tax. In counting the number of days, all sales by groups within a 73989  
church or within an organization shall be considered to be sales 73990  
of that church or organization. 73991

(b) The limitation on the number of days on which tax-exempt 73992  
sales may be made by a church or organization under division 73993  
(B)(9)(a) of this section does not apply to sales made by student 73994  
clubs and other groups of students of a primary or secondary 73995  
school, or a parent-teacher association, booster group, or similar 73996  
organization that raises money to support or fund curricular or 73997  
extracurricular activities of a primary or secondary school. 73998

(c) Divisions (B)(9)(a) and (b) of this section do not apply 73999  
to sales by a noncommercial educational radio or television 74000  
broadcasting station. 74001

(10) Sales not within the taxing power of this state under 74002  
the Constitution of the United States; 74003

(11) Except for transactions that are sales under division 74004  
(B)(3)(r) of section 5739.01 of the Revised Code, the 74005  
transportation of persons or property, unless the transportation 74006  
is by a private investigation and security service; 74007

(12) Sales of tangible personal property or services to 74008  
churches, to organizations exempt from taxation under section 74009  
501(c)(3) of the Internal Revenue Code of 1986, and to any other 74010  
nonprofit organizations operated exclusively for charitable 74011  
purposes in this state, no part of the net income of which inures 74012  
to the benefit of any private shareholder or individual, and no 74013  
substantial part of the activities of which consists of carrying 74014  
on propaganda or otherwise attempting to influence legislation; 74015

sales to offices administering one or more homes for the aged or 74016  
one or more hospital facilities exempt under section 140.08 of the 74017  
Revised Code; and sales to organizations described in division (D) 74018  
of section 5709.12 of the Revised Code. 74019

"Charitable purposes" means the relief of poverty; the 74020  
improvement of health through the alleviation of illness, disease, 74021  
or injury; the operation of an organization exclusively for the 74022  
provision of professional, laundry, printing, and purchasing 74023  
services to hospitals or charitable institutions; the operation of 74024  
a home for the aged, as defined in section 5701.13 of the Revised 74025  
Code; the operation of a radio or television broadcasting station 74026  
that is licensed by the federal communications commission as a 74027  
noncommercial educational radio or television station; the 74028  
operation of a nonprofit animal adoption service or a county 74029  
humane society; the promotion of education by an institution of 74030  
learning that maintains a faculty of qualified instructors, 74031  
teaches regular continuous courses of study, and confers a 74032  
recognized diploma upon completion of a specific curriculum; the 74033  
operation of a parent-teacher association, booster group, or 74034  
similar organization primarily engaged in the promotion and 74035  
support of the curricular or extracurricular activities of a 74036  
primary or secondary school; the operation of a community or area 74037  
center in which presentations in music, dramatics, the arts, and 74038  
related fields are made in order to foster public interest and 74039  
education therein; the production of performances in music, 74040  
dramatics, and the arts; or the promotion of education by an 74041  
organization engaged in carrying on research in, or the 74042  
dissemination of, scientific and technological knowledge and 74043  
information primarily for the public. 74044

Nothing in this division shall be deemed to exempt sales to 74045  
any organization for use in the operation or carrying on of a 74046  
trade or business, or sales to a home for the aged for use in the 74047

operation of independent living facilities as defined in division 74048  
(A) of section 5709.12 of the Revised Code. 74049

(13) Building and construction materials and services sold to 74050  
construction contractors for incorporation into a structure or 74051  
improvement to real property under a construction contract with 74052  
this state or a political subdivision of this state, or with the 74053  
United States government or any of its agencies; building and 74054  
construction materials and services sold to construction 74055  
contractors for incorporation into a structure or improvement to 74056  
real property that are accepted for ownership by this state or any 74057  
of its political subdivisions, or by the United States government 74058  
or any of its agencies at the time of completion of the structures 74059  
or improvements; building and construction materials sold to 74060  
construction contractors for incorporation into a horticulture 74061  
structure or livestock structure for a person engaged in the 74062  
business of horticulture or producing livestock; building 74063  
materials and services sold to a construction contractor for 74064  
incorporation into a house of public worship or religious 74065  
education, or a building used exclusively for charitable purposes 74066  
under a construction contract with an organization whose purpose 74067  
is as described in division (B)(12) of this section; building 74068  
materials and services sold to a construction contractor for 74069  
incorporation into a building under a construction contract with 74070  
an organization exempt from taxation under section 501(c)(3) of 74071  
the Internal Revenue Code of 1986 when the building is to be used 74072  
exclusively for the organization's exempt purposes; building and 74073  
construction materials sold for incorporation into the original 74074  
construction of a sports facility under section 307.696 of the 74075  
Revised Code; building and construction materials and services 74076  
sold to a construction contractor for incorporation into real 74077  
property outside this state if such materials and services, when 74078  
sold to a construction contractor in the state in which the real 74079  
property is located for incorporation into real property in that 74080

state, would be exempt from a tax on sales levied by that state; 74081  
and, until one calendar year after the construction of a 74082  
convention center that qualifies for property tax exemption under 74083  
section 5709.084 of the Revised Code is completed, building and 74084  
construction materials and services sold to a construction 74085  
contractor for incorporation into the real property comprising 74086  
that convention center; 74087

(14) Sales of ships or vessels or rail rolling stock used or 74088  
to be used principally in interstate or foreign commerce, and 74089  
repairs, alterations, fuel, and lubricants for such ships or 74090  
vessels or rail rolling stock; 74091

(15) Sales to persons primarily engaged in any of the 74092  
activities mentioned in division (B)(42)(a), (g), or (h) of this 74093  
section, to persons engaged in making retail sales, or to persons 74094  
who purchase for sale from a manufacturer tangible personal 74095  
property that was produced by the manufacturer in accordance with 74096  
specific designs provided by the purchaser, of packages, including 74097  
material, labels, and parts for packages, and of machinery, 74098  
equipment, and material for use primarily in packaging tangible 74099  
personal property produced for sale, including any machinery, 74100  
equipment, and supplies used to make labels or packages, to 74101  
prepare packages or products for labeling, or to label packages or 74102  
products, by or on the order of the person doing the packaging, or 74103  
sold at retail. "Packages" includes bags, baskets, cartons, 74104  
crates, boxes, cans, bottles, bindings, wrappings, and other 74105  
similar devices and containers, but does not include motor 74106  
vehicles or bulk tanks, trailers, or similar devices attached to 74107  
motor vehicles. "Packaging" means placing in a package. Division 74108  
(B)(15) of this section does not apply to persons engaged in 74109  
highway transportation for hire. 74110

(16) Sales of food to persons using supplemental nutrition 74111  
assistance program benefits to purchase the food. As used in this 74112

division, "food" has the same meaning as in 7 U.S.C. 2012 and 74113  
federal regulations adopted pursuant to the Food and Nutrition Act 74114  
of 2008. 74115

(17) Sales to persons engaged in farming, agriculture, 74116  
horticulture, or floriculture, of tangible personal property for 74117  
use or consumption primarily in the production by farming, 74118  
agriculture, horticulture, or floriculture of other tangible 74119  
personal property for use or consumption primarily in the 74120  
production of tangible personal property for sale by farming, 74121  
agriculture, horticulture, or floriculture; or material and parts 74122  
for incorporation into any such tangible personal property for use 74123  
or consumption in production; and of tangible personal property 74124  
for such use or consumption in the conditioning or holding of 74125  
products produced by and for such use, consumption, or sale by 74126  
persons engaged in farming, agriculture, horticulture, or 74127  
floriculture, except where such property is incorporated into real 74128  
property; 74129

(18) Sales of drugs for a human being that may be dispensed 74130  
only pursuant to a prescription; insulin as recognized in the 74131  
official United States pharmacopoeia; urine and blood testing 74132  
materials when used by diabetics or persons with hypoglycemia to 74133  
test for glucose or acetone; hypodermic syringes and needles when 74134  
used by diabetics for insulin injections; epoetin alfa when 74135  
purchased for use in the treatment of persons with medical 74136  
disease; hospital beds when purchased by hospitals, nursing homes, 74137  
or other medical facilities; and medical oxygen and medical 74138  
oxygen-dispensing equipment when purchased by hospitals, nursing 74139  
homes, or other medical facilities; 74140

(19) Sales of prosthetic devices, durable medical equipment 74141  
for home use, or mobility enhancing equipment, when made pursuant 74142  
to a prescription and when such devices or equipment are for use 74143  
by a human being. 74144

(20) Sales of emergency and fire protection vehicles and 74145  
equipment to nonprofit organizations for use solely in providing 74146  
fire protection and emergency services, including trauma care and 74147  
emergency medical services, for political subdivisions of the 74148  
state; 74149

(21) Sales of tangible personal property manufactured in this 74150  
state, if sold by the manufacturer in this state to a retailer for 74151  
use in the retail business of the retailer outside of this state 74152  
and if possession is taken from the manufacturer by the purchaser 74153  
within this state for the sole purpose of immediately removing the 74154  
same from this state in a vehicle owned by the purchaser; 74155

(22) Sales of services provided by the state or any of its 74156  
political subdivisions, agencies, instrumentalities, institutions, 74157  
or authorities, or by governmental entities of the state or any of 74158  
its political subdivisions, agencies, instrumentalities, 74159  
institutions, or authorities; 74160

(23) Sales of motor vehicles to nonresidents of this state 74161  
under the circumstances described in division (B) of section 74162  
5739.029 of the Revised Code; 74163

(24) Sales to persons engaged in the preparation of eggs for 74164  
sale of tangible personal property used or consumed directly in 74165  
such preparation, including such tangible personal property used 74166  
for cleaning, sanitizing, preserving, grading, sorting, and 74167  
classifying by size; packages, including material and parts for 74168  
packages, and machinery, equipment, and material for use in 74169  
packaging eggs for sale; and handling and transportation equipment 74170  
and parts therefor, except motor vehicles licensed to operate on 74171  
public highways, used in intraplant or interplant transfers or 74172  
shipment of eggs in the process of preparation for sale, when the 74173  
plant or plants within or between which such transfers or 74174  
shipments occur are operated by the same person. "Packages" 74175  
includes containers, cases, baskets, flats, fillers, filler flats, 74176

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| cartons, closure materials, labels, and labeling materials, and    | 74177 |
| "packaging" means placing therein.                                 | 74178 |
| (25)(a) Sales of water to a consumer for residential use,          | 74179 |
| except the sale of bottled water, distilled water, mineral water,  | 74180 |
| carbonated water, or ice;  | 74181 |
| (b) Sales of water by a nonprofit corporation engaged              | 74182 |
| exclusively in the treatment, distribution, and sale of water to   | 74183 |
| consumers, if such water is delivered to consumers through pipes   | 74184 |
| or tubing.   | 74185 |
| (26) Fees charged for inspection or reinspection of motor          | 74186 |
| vehicles under section 3704.14 of the Revised Code;                | 74187 |
| (27) Sales to persons licensed to conduct a food service           | 74188 |
| operation pursuant to section 3717.43 of the Revised Code, of      | 74189 |
| tangible personal property primarily used directly for the         | 74190 |
| following:   | 74191 |
| (a) To prepare food for human consumption for sale;                | 74192 |
| (b) To preserve food that has been or will be prepared for         | 74193 |
| human consumption for sale by the food service operator, not       | 74194 |
| including tangible personal property used to display food for      | 74195 |
| selection by the consumer;   | 74196 |
| (c) To clean tangible personal property used to prepare or         | 74197 |
| serve food for human consumption for sale.                         | 74198 |
| (28) Sales of animals by nonprofit animal adoption services        | 74199 |
| or county humane societies;  | 74200 |
| (29) Sales of services to a corporation described in division      | 74201 |
| (A) of section 5709.72 of the Revised Code, and sales of tangible  | 74202 |
| personal property that qualifies for exemption from taxation under | 74203 |
| section 5709.72 of the Revised Code;                               | 74204 |
| (30) Sales and installation of agricultural land tile, as          | 74205 |
| defined in division (B)(5)(a) of section 5739.01 of the Revised    | 74206 |

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| Code;  | 74207   |
| (31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;   | 74208<br>74209<br>74210   |
| (32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;  | 74211<br>74212<br>74213<br>74214<br>74215<br>74216  |
| (33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;   | 74217<br>74218<br>74219<br>74220<br>74221   |
| (34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service. | 74222<br>74223<br>74224<br>74225<br>74226<br>74227<br>74228<br>74229<br>74230<br>74231<br>74232<br>74233<br>74234<br>74235<br>74236 |
| (35)(a) Sales where the purpose of the consumer is to use or   | 74237   |

consume the things transferred in making retail sales and 74238  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 74239  
certificates, or other advertising material that prices and 74240  
describes tangible personal property offered for retail sale. 74241

(b) Sales to direct marketing vendors of preliminary 74242  
materials such as photographs, artwork, and typesetting that will 74243  
be used in printing advertising material; and of printed matter 74244  
that offers free merchandise or chances to win sweepstake prizes 74245  
and that is mailed to potential customers with advertising 74246  
material described in division (B)(35)(a) of this section; ~~and~~ 74247

(c) Sales of equipment such as telephones, computers, 74248  
facsimile machines, and similar tangible personal property 74249  
primarily used to accept orders for direct marketing retail sales. 74250

~~(e)~~(d) Sales of automatic food vending machines that preserve 74251  
food with a shelf life of forty-five days or less by refrigeration 74252  
and dispense it to the consumer. 74253

For purposes of division (B)(35) of this section, "direct 74254  
marketing" means the method of selling where consumers order 74255  
tangible personal property by United States mail, delivery 74256  
service, or telecommunication and the vendor delivers or ships the 74257  
tangible personal property sold to the consumer from a warehouse, 74258  
catalogue distribution center, or similar fulfillment facility by 74259  
means of the United States mail, delivery service, or common 74260  
carrier. 74261

(36) Sales to a person engaged in the business of 74262  
horticulture or producing livestock of materials to be 74263  
incorporated into a horticulture structure or livestock structure; 74264

(37) Sales of personal computers, computer monitors, computer 74265  
keyboards, modems, and other peripheral computer equipment to an 74266  
individual who is licensed or certified to teach in an elementary 74267  
or a secondary school in this state for use by that individual in 74268

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| preparation for teaching elementary or secondary school students;  | 74269 |
| (38) Sales to a professional racing team of any of the             | 74270 |
| following:   | 74271 |
| (a) Motor racing vehicles;   | 74272 |
| (b) Repair services for motor racing vehicles;                     | 74273 |
| (c) Items of property that are attached to or incorporated in      | 74274 |
| motor racing vehicles, including engines, chassis, and all other   | 74275 |
| components of the vehicles, and all spare, replacement, and        | 74276 |
| rebuilt parts or components of the vehicles; except not including  | 74277 |
| tires, consumable fluids, paint, and accessories consisting of     | 74278 |
| instrumentation sensors and related items added to the vehicle to  | 74279 |
| collect and transmit data by means of telemetry and other forms of | 74280 |
| communication.   | 74281 |
| (39) Sales of used manufactured homes and used mobile homes,       | 74282 |
| as defined in section 5739.0210 of the Revised Code, made on or    | 74283 |
| after January 1, 2000;   | 74284 |
| (40) Sales of tangible personal property and services to a         | 74285 |
| provider of electricity used or consumed directly and primarily in | 74286 |
| generating, transmitting, or distributing electricity for use by   | 74287 |
| others, including property that is or is to be incorporated into   | 74288 |
| and will become a part of the consumer's production, transmission, | 74289 |
| or distribution system and that retains its classification as      | 74290 |
| tangible personal property after incorporation; fuel or power used | 74291 |
| in the production, transmission, or distribution of electricity;   | 74292 |
| energy conversion equipment as defined in section 5727.01 of the   | 74293 |
| Revised Code; and tangible personal property and services used in  | 74294 |
| the repair and maintenance of the production, transmission, or     | 74295 |
| distribution system, including only those motor vehicles as are    | 74296 |
| specially designed and equipped for such use. The exemption        | 74297 |
| provided in this division shall be in lieu of all other exemptions | 74298 |
| in division (B)(42)(a) or (n) of this section to which a provider  | 74299 |

of electricity may otherwise be entitled based on the use of the 74300  
tangible personal property or service purchased in generating, 74301  
transmitting, or distributing electricity. 74302

(41) Sales to a person providing services under division 74303  
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 74304  
personal property and services used directly and primarily in 74305  
providing taxable services under that section. 74306

(42) Sales where the purpose of the purchaser is to do any of 74307  
the following: 74308

(a) To incorporate the thing transferred as a material or a 74309  
part into tangible personal property to be produced for sale by 74310  
manufacturing, assembling, processing, or refining; or to use or 74311  
consume the thing transferred directly in producing tangible 74312  
personal property for sale by mining, including, without 74313  
limitation, the extraction from the earth of all substances that 74314  
are classed geologically as minerals, production of crude oil and 74315  
natural gas, or directly in the rendition of a public utility 74316  
service, except that the sales tax levied by this section shall be 74317  
collected upon all meals, drinks, and food for human consumption 74318  
sold when transporting persons. Persons engaged in rendering 74319  
services in the exploration for, and production of, crude oil and 74320  
natural gas for others are deemed engaged directly in the 74321  
exploration for, and production of, crude oil and natural gas. 74322  
This paragraph does not exempt from "retail sale" or "sales at 74323  
retail" the sale of tangible personal property that is to be 74324  
incorporated into a structure or improvement to real property. 74325

(b) To hold the thing transferred as security for the 74326  
performance of an obligation of the vendor; 74327

(c) To resell, hold, use, or consume the thing transferred as 74328  
evidence of a contract of insurance; 74329

(d) To use or consume the thing directly in commercial 74330

fishing; 74331

(e) To incorporate the thing transferred as a material or a 74332  
part into, or to use or consume the thing transferred directly in 74333  
the production of, magazines distributed as controlled circulation 74334  
publications; 74335

(f) To use or consume the thing transferred in the production 74336  
and preparation in suitable condition for market and sale of 74337  
printed, imprinted, overprinted, lithographic, multilithic, 74338  
blueprinted, photostatic, or other productions or reproductions of 74339  
written or graphic matter; 74340

(g) To use the thing transferred, as described in section 74341  
5739.011 of the Revised Code, primarily in a manufacturing 74342  
operation to produce tangible personal property for sale; 74343

(h) To use the benefit of a warranty, maintenance or service 74344  
contract, or similar agreement, as described in division (B)(7) of 74345  
section 5739.01 of the Revised Code, to repair or maintain 74346  
tangible personal property, if all of the property that is the 74347  
subject of the warranty, contract, or agreement would not be 74348  
subject to the tax imposed by this section; 74349

(i) To use the thing transferred as qualified research and 74350  
development equipment; 74351

(j) To use or consume the thing transferred primarily in 74352  
storing, transporting, mailing, or otherwise handling purchased 74353  
sales inventory in a warehouse, distribution center, or similar 74354  
facility when the inventory is primarily distributed outside this 74355  
state to retail stores of the person who owns or controls the 74356  
warehouse, distribution center, or similar facility, to retail 74357  
stores of an affiliated group of which that person is a member, or 74358  
by means of direct marketing. This division does not apply to 74359  
motor vehicles registered for operation on the public highways. As 74360  
used in this division, "affiliated group" has the same meaning as 74361

in division (B)(3)(e) of section 5739.01 of the Revised Code and 74362  
"direct marketing" has the same meaning as in division (B)(35) of 74363  
this section. 74364

(k) To use or consume the thing transferred to fulfill a 74365  
contractual obligation incurred by a warrantor pursuant to a 74366  
warranty provided as a part of the price of the tangible personal 74367  
property sold or by a vendor of a warranty, maintenance or service 74368  
contract, or similar agreement the provision of which is defined 74369  
as a sale under division (B)(7) of section 5739.01 of the Revised 74370  
Code; 74371

(l) To use or consume the thing transferred in the production 74372  
of a newspaper for distribution to the public; 74373

(m) To use tangible personal property to perform a service 74374  
listed in division (B)(3) of section 5739.01 of the Revised Code, 74375  
if the property is or is to be permanently transferred to the 74376  
consumer of the service as an integral part of the performance of 74377  
the service; 74378

(n) To use or consume the thing transferred primarily in 74379  
producing tangible personal property for sale by farming, 74380  
agriculture, horticulture, or floriculture. Persons engaged in 74381  
rendering farming, agriculture, horticulture, or floriculture 74382  
services for others are deemed engaged primarily in farming, 74383  
agriculture, horticulture, or floriculture. This paragraph does 74384  
not exempt from "retail sale" or "sales at retail" the sale of 74385  
tangible personal property that is to be incorporated into a 74386  
structure or improvement to real property. 74387

(o) To use or consume the thing transferred in acquiring, 74388  
formatting, editing, storing, and disseminating data or 74389  
information by electronic publishing. 74390

As used in division (B)(42) of this section, "thing" includes 74391  
all transactions included in divisions (B)(3)(a), (b), and (e) of 74392

section 5739.01 of the Revised Code. 74393

(43) Sales conducted through a coin operated device that 74394  
activates vacuum equipment or equipment that dispenses water, 74395  
whether or not in combination with soap or other cleaning agents 74396  
or wax, to the consumer for the consumer's use on the premises in 74397  
washing, cleaning, or waxing a motor vehicle, provided no other 74398  
personal property or personal service is provided as part of the 74399  
transaction. 74400

(44) Sales of replacement and modification parts for engines, 74401  
airframes, instruments, and interiors in, and paint for, aircraft 74402  
used primarily in a fractional aircraft ownership program, and 74403  
sales of services for the repair, modification, and maintenance of 74404  
such aircraft, and machinery, equipment, and supplies primarily 74405  
used to provide those services. 74406

(45) Sales of telecommunications service that is used 74407  
directly and primarily to perform the functions of a call center. 74408  
As used in this division, "call center" means any physical 74409  
location where telephone calls are placed or received in high 74410  
volume for the purpose of making sales, marketing, customer 74411  
service, technical support, or other specialized business 74412  
activity, and that employs at least fifty individuals that engage 74413  
in call center activities on a full-time basis, or sufficient 74414  
individuals to fill fifty full-time equivalent positions. 74415

(46) Sales by a telecommunications service vendor of 900 74416  
service to a subscriber. This division does not apply to 74417  
information services, as defined in division (FF) of section 74418  
5739.01 of the Revised Code. 74419

(47) Sales of value-added non-voice data service. This 74420  
division does not apply to any similar service that is not 74421  
otherwise a telecommunications service. 74422

(48)(a) Sales of machinery, equipment, and software to a 74423

qualified direct selling entity for use in a warehouse or 74424  
distribution center primarily for storing, transporting, or 74425  
otherwise handling inventory that is held for sale to independent 74426  
salespersons who operate as direct sellers and that is held 74427  
primarily for distribution outside this state; 74428

(b) As used in division (B)(48)(a) of this section: 74429

(i) "Direct seller" means a person selling consumer products 74430  
to individuals for personal or household use and not from a fixed 74431  
retail location, including selling such product at in-home product 74432  
demonstrations, parties, and other one-on-one selling. 74433

(ii) "Qualified direct selling entity" means an entity 74434  
selling to direct sellers at the time the entity enters into a tax 74435  
credit agreement with the tax credit authority pursuant to section 74436  
122.17 of the Revised Code, provided that the agreement was 74437  
entered into on or after January 1, 2007. Neither contingencies 74438  
relevant to the granting of, nor later developments with respect 74439  
to, the tax credit shall impair the status of the qualified direct 74440  
selling entity under division (B)(48) of this section after 74441  
execution of the tax credit agreement by the tax credit authority. 74442

(c) Division (B)(48) of this section is limited to machinery, 74443  
equipment, and software first stored, used, or consumed in this 74444  
state within the period commencing June 24, 2008, and ending on 74445  
the date that is five years after that date. 74446

(49)(a) Sales of materials, parts, equipment, or engines used 74447  
in the repair or maintenance of aircraft or avionics systems of 74448  
such aircraft, and sales of repair, remodeling, replacement, or 74449  
maintenance services in this state performed on aircraft or on an 74450  
aircraft's avionics, engine, or component materials or parts. As 74451  
used in division (B)(49)(a) of this section, "aircraft" means 74452  
aircraft of more than six thousand pounds maximum certified 74453  
takeoff weight or used exclusively in general aviation. 74454

(b) Sales of tangible personal property, including materials, parts, equipment, software, supplies, tools, fuel, catalysts, oil, acids, and other consumables, or services used or consumed in performing research and development activities with respect to aerospace vehicles, the parts, avionics systems, control systems, engines, software, component materials, or component parts of such aerospace vehicles, and human performance equipment and technology associated with operating and testing aerospace vehicles. As used in division (B)(49)(b) of this section, "aerospace vehicles" means any manned or unmanned aviation device including, but not limited to, aircraft, airplanes, helicopters, missiles, rockets, and space vehicles.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(51) Any transfer or lease of tangible personal property between the state and a successful proposer in accordance with sections 126.60 to 126.605 of the Revised Code, provided the property is part of a project as defined in section 126.60 of the Revised Code and the state retains ownership of the project or part thereof that is being transferred or leased, between the state and JobsOhio in accordance with section 4313.02 of the

Revised Code. 74487

(C) For the purpose of the proper administration of this 74488  
chapter, and to prevent the evasion of the tax, it is presumed 74489  
that all sales made in this state are subject to the tax until the 74490  
contrary is established. 74491

(D) The levy of this tax on retail sales of recreation and 74492  
sports club service shall not prevent a municipal corporation from 74493  
levying any tax on recreation and sports club dues or on any 74494  
income generated by recreation and sports club dues. 74495

(E) The tax collected by the vendor from the consumer under 74496  
this chapter is not part of the price, but is a tax collection for 74497  
the benefit of the state, and of counties levying an additional 74498  
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 74499  
Code and of transit authorities levying an additional sales tax 74500  
pursuant to section 5739.023 of the Revised Code. Except for the 74501  
discount authorized under section 5739.12 of the Revised Code and 74502  
the effects of any rounding pursuant to section 5703.055 of the 74503  
Revised Code, no person other than the state or such a county or 74504  
transit authority shall derive any benefit from the collection or 74505  
payment of the tax levied by this section or section 5739.021, 74506  
5739.023, or 5739.026 of the Revised Code. 74507

**Sec. 5743.03.** (A) Except as provided in section 5743.04 of 74508  
the Revised Code, the taxes imposed under sections 5743.02, 74509  
5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid 74510  
by the purchase of tax stamps. A tax stamp shall be affixed to 74511  
each package of an aggregate denomination not less than the amount 74512  
of the tax upon the contents thereof. The tax stamp, so affixed, 74513  
shall be prima-facie evidence of payment of the tax. 74514

Except as is provided in the rules prescribed by the tax 74515  
commissioner under authority of sections 5743.01 to 5743.20 of the 74516  
Revised Code, and unless tax stamps have been previously affixed, 74517

they shall be so affixed by each wholesale dealer, and canceled by 74518  
writing or stamping across the face thereof the number assigned to 74519  
such wholesale dealer by the tax commissioner for that purpose, 74520  
prior to the delivery of any cigarettes to any person in this 74521  
state, or in the case of a tax levied pursuant to section 74522  
5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the 74523  
delivery of cigarettes to any person in the county in which the 74524  
tax is levied. 74525

(B) Except as provided in the rules prescribed by the 74526  
commissioner under authority of sections 5743.01 to 5743.20 of the 74527  
Revised Code, each retail dealer, within twenty-four hours after 74528  
the receipt of any cigarettes at the retail dealer's place of 74529  
business, shall inspect the cigarettes to ensure that tax stamps 74530  
are affixed. The inspection shall be completed before the 74531  
cigarettes are delivered to any person in this state, or, in the 74532  
case of a tax levied pursuant to section 5743.021, 5743.024, or 74533  
5743.026 of the Revised Code, before the cigarettes are delivered 74534  
to any person in the county in which the tax is levied. 74535

(C) Whenever any cigarettes are found in the place of 74536  
business of any retail dealer without proper tax stamps affixed 74537  
thereto and canceled, it is presumed that such cigarettes are kept 74538  
therein in violation of sections 5743.01 to 5743.20 of the Revised 74539  
Code. 74540

(D) Each wholesale dealer who purchases cigarettes without 74541  
proper tax stamps affixed thereto shall, on or before the 74542  
thirty-first day of the month following the close of each 74543  
semiannual period, which period shall end on the thirtieth day of 74544  
June and the thirty-first day of December of each year, make and 74545  
file a return of the preceding semiannual period, on such form as 74546  
is prescribed by the tax commissioner, showing the dealer's entire 74547  
purchases and sales of cigarettes and stamps or impressions for 74548  
such semiannual period and accurate inventories as of the 74549

beginning and end of each semiannual period of cigarettes, stamped 74550  
or unstamped; cigarette tax stamps affixed or unaffixed and unused 74551  
meter impressions; and such other information as the commissioner 74552  
finds necessary to the proper administration of sections 5743.01 74553  
to 5743.20 of the Revised Code. The commissioner may extend the 74554  
time for making and filing returns and may remit all or any part 74555  
of amounts of penalties that may become due under sections 5743.01 74556  
to 5743.20 of the Revised Code. The wholesale dealer shall deliver 74557  
the return together with a remittance of the tax deficiency 74558  
reported thereon to the treasurer of state. The treasurer of state 74559  
shall stamp or otherwise mark on the return the date it was 74560  
received and shall also show thereon by stamp or otherwise a 74561  
payment or nonpayment of the deficiency shown by the return. 74562  
Thereafter, the treasurer of state shall immediately transmit all 74563  
returns filed under this section to the commissioner. 74564

(E) Any wholesale dealer who fails to file a return under 74565  
this section and the rules of the commissioner, other than a 74566  
report required pursuant to division (F) of this section, may be 74567  
required, for each day the dealer so fails, to forfeit and pay 74568  
into the state treasury the sum of one dollar as revenue arising 74569  
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 74570  
Code and such sum may be collected by assessment in the manner 74571  
provided in section 5743.081 of the Revised Code. If the 74572  
commissioner finds it necessary in order to insure the payment of 74573  
the tax imposed by sections 5743.01 to 5743.20 of the Revised 74574  
Code, the commissioner may require returns and payments to be made 74575  
other than semiannually. The returns shall be signed by the 74576  
wholesale dealer or an authorized agent thereof. 74577

(F) Each person required to file a tax return under section 74578  
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 74579  
the commissioner the quantity of all cigarettes and roll-your-own 74580  
cigarette tobacco sold in Ohio for each brand not covered by the 74581

tobacco master settlement agreement for which the person is liable 74582  
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 74583  
the Revised Code. 74584

As used in this division, "tobacco master settlement 74585  
agreement" has the same meaning as in section 183.01 of the 74586  
Revised Code. 74587

(G) The report required by division (F) of this section shall 74588  
be made on a form prescribed by the commissioner and shall be 74589  
filed not later than the last day of each month for the previous 74590  
month, except that if the commissioner determines that the 74591  
quantity reported by a person does not warrant monthly reporting, 74592  
the commissioner may authorize reporting at less frequent 74593  
intervals. The commissioner may assess a penalty of not more than 74594  
two hundred fifty dollars for each month or portion thereof that a 74595  
person fails to timely file a required report, and such sum may be 74596  
collected by assessment in the manner provided in section 5743.081 74597  
of the Revised Code. All money collected under this division shall 74598  
be considered as revenue arising from the taxes imposed by 74599  
sections 5743.01 to 5743.20 of the Revised Code. 74600

(H) The treasurer of state or an agent of the treasurer may 74601  
sell tax stamps only to a licensed wholesale dealer, except as 74602  
otherwise authorized by the commissioner. The treasurer or an 74603  
agent of the treasurer may charge the costs associated with the 74604  
sale of tax stamps to the licensed wholesale dealer. Amounts 74605  
collected from such charges shall be credited to the treasurer of 74606  
state's administrative fund created under section 113.20 of the 74607  
Revised Code. 74608

**Sec. 5743.031.** (A) A wholesale dealer may affix stamps only 74609  
to packages of cigarettes that the dealer received directly from a 74610  
manufacturer or importer of cigarettes that possesses a valid and 74611  
current license under section 5743.15 of the Revised Code, or to 74612

packages of cigarettes that the dealer received from another 74613  
wholesale dealer that possesses a valid and current license under 74614  
section 5743.15 of the Revised Code, provided that the tax 74615  
commissioner has authorized the sale of the cigarettes between 74616  
those wholesale dealers and that the wholesale dealer that sells 74617  
the cigarettes received them directly from a manufacturer or 74618  
importer of cigarettes that possesses a valid and current license 74619  
under section 5743.15 of the Revised Code. 74620

(B) Only a wholesale dealer that possesses a valid and 74621  
current license under section 5743.15 of the Revised Code may 74622  
purchase or obtain tax stamps. A wholesale dealer may not sell or 74623  
provide such stamps to any other wholesale dealer or any other 74624  
person. 74625

(C) Any person shipping unstamped packages of cigarettes into 74626  
this state to a person other than a wholesale dealer licensed 74627  
under section 5743.15 of the Revised Code shall, before such 74628  
shipment, file notice of the shipment with the tax commissioner. 74629  
Any person that transports unstamped packages of cigarettes into 74630  
or within this state shall carry in the vehicle used to convey the 74631  
shipment invoices or equivalent documentation of the shipment for 74632  
all cigarettes in the shipment. The invoices or other 74633  
documentation shall show the true name and address of the 74634  
consignor or seller, the true name and address of the consignee or 74635  
purchaser, and the quantity of the cigarettes being transported. 74636  
This division does not apply to any ~~common or contract~~ for-hire 74637  
motor carrier transporting cigarettes through this state to 74638  
another location under a proper bill of lading or freight bill 74639  
that states the quantity, source, and destination of the 74640  
cigarettes. 74641

**Sec. 5751.033.** For the purposes of this chapter, gross 74642  
receipts shall be situated to this state as follows: 74643

(A) Gross rents and royalties from real property located in this state shall be sitused to this state. 74644  
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(B) Gross rents and royalties from tangible personal property shall be sitused to this state to the extent the tangible personal property is located or used in this state. 74646  
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(C) Gross receipts from the sale of electricity and electric transmission and distribution services shall be sitused to this state in the manner provided under section 5733.059 of the Revised Code. 74649  
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(D) Gross receipts from the sale of real property located in this state shall be sitused to this state. 74653  
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(E) Gross receipts from the sale of tangible personal property shall be sitused to this state if the property is received in this state by the purchaser. In the case of delivery of tangible personal property by ~~common~~ motor carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered the place where the purchaser receives the property. For purposes of this section, the phrase "delivery of tangible personal property by ~~common~~ motor carrier or by other means of transportation" includes the situation in which a purchaser accepts the property in this state and then transports the property directly or by other means to a location outside this state. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale. 74655  
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(F) Gross receipts from the sale, exchange, disposition, or 74674

other grant of the right to use trademarks, trade names, patents, 74675  
copyrights, and similar intellectual property shall be sitused to 74676  
this state to the extent that the receipts are based on the amount 74677  
of use of the property in this state. If the receipts are not 74678  
based on the amount of use of the property, but rather on the 74679  
right to use the property, and the payor has the right to use the 74680  
property in this state, then the receipts from the sale, exchange, 74681  
disposition, or other grant of the right to use such property 74682  
shall be sitused to this state to the extent the receipts are 74683  
based on the right to use the property in this state. 74684

(G) Gross receipts from the sale of transportation services 74685  
by a ~~common or contract~~ motor carrier shall be sitused to this 74686  
state in proportion to the mileage traveled by the carrier during 74687  
the tax period on roadways, waterways, airways, and railways in 74688  
this state to the mileage traveled by the carrier during the tax 74689  
period on roadways, waterways, airways, and railways everywhere. 74690  
With prior written approval of the tax commissioner, a ~~common or~~ 74691  
~~contract~~ motor carrier may use an alternative situsing procedure 74692  
for transportation services. 74693

(H) Gross receipts from dividends, interest, and other 74694  
sources of income from financial instruments described in 74695  
divisions (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of 74696  
section 5733.056 of the Revised Code shall be sitused to this 74697  
state in accordance with the situsing provisions set forth in 74698  
those divisions. When applying the provisions of divisions (F)(6), 74699  
(8), and (13) of section 5733.056 of the Revised Code, "gross 74700  
receipts" shall be substituted for "net gains" wherever "net 74701  
gains" appears in those divisions. Nothing in this division limits 74702  
or modifies the exclusions enumerated in divisions (E) and (F)(2) 74703  
of section 5751.01 of the Revised Code. The tax commissioner may 74704  
promulgate rules to further specify the manner in which to situs 74705  
gross receipts subject to this division. 74706

(I) Gross receipts from the sale of all other services, and 74707  
all other gross receipts not otherwise situated under this section, 74708  
shall be situated to this state in the proportion that the 74709  
purchaser's benefit in this state with respect to what was 74710  
purchased bears to the purchaser's benefit everywhere with respect 74711  
to what was purchased. The physical location where the purchaser 74712  
ultimately uses or receives the benefit of what was purchased 74713  
shall be paramount in determining the proportion of the benefit in 74714  
this state to the benefit everywhere. If a taxpayer's records do 74715  
not allow the taxpayer to determine that location, the taxpayer 74716  
may use an alternative method to situs gross receipts under this 74717  
division if the alternative method is reasonable, is consistently 74718  
and uniformly applied, and is supported by the taxpayer's records 74719  
as the records exist when the service is provided or within a 74720  
reasonable period of time thereafter. 74721

(J) If the situsing provisions of divisions (A) to (H) of 74722  
this section do not fairly represent the extent of a person's 74723  
activity in this state, the person may request, or the tax 74724  
commissioner may require or permit, an alternative method. Such 74725  
request by a person must be made within the applicable statute of 74726  
limitations set forth in this chapter. 74727

(K) The tax commissioner may adopt rules to provide 74728  
additional guidance to the application of this section, and 74729  
provide alternative methods of situsing gross receipts that apply 74730  
to all persons, or subset of persons, that are engaged in similar 74731  
business or trade activities. 74732

(L) As used in this section, "motor carrier" has the same 74733  
meaning as in section 4923.01 of the Revised Code. 74734

**Sec. 5751.12.** The tax commissioner may prescribe requirements 74735  
for the keeping of records and other pertinent documents, the 74736  
filing of copies of federal income tax returns and determinations, 74737

and computations reconciling federal income tax returns with the 74738  
returns and reports required by section 5751.05 of the Revised 74739  
Code. The commissioner may require any person, by rule or notice 74740  
served on that person, to keep those records that the commissioner 74741  
considers necessary to show whether, and the extent to which, a 74742  
person is subject to this chapter. Those records and other 74743  
documents shall be open during business hours to the inspection of 74744  
the commissioner, and shall be preserved for a period of four 74745  
years unless the commissioner, in writing, consents to their 74746  
destruction within that period, or by order requires that they be 74747  
kept longer. If such records are normally kept by the person 74748  
electronically, the person shall provide such records to the 74749  
commissioner electronically at the commissioner's request. 74750

Any information required by the ~~tax~~ commissioner under this 74751  
chapter is confidential as provided for in section 5703.21 of the 74752  
Revised Code. However, the commissioner shall make public an 74753  
electronic list of all actively registered persons required to 74754  
remit the tax under this chapter, including legal names, trade 74755  
names, addresses, and account numbers. In addition, such list 74756  
shall include all persons that cancelled their registration at any 74757  
time during the preceding four calendar years, including the date 74758  
the registration was cancelled. 74759

**Sec. 6109.21.** (A) Except as provided in divisions ~~(D)~~(I) and 74760  
~~(E)~~(J) of this section, ~~on and after January 1, 1994,~~ no person 74761  
shall operate ~~or maintain~~ a public water system in this state 74762  
without a license issued by the director of environmental 74763  
protection. ~~A person who operates or maintains a public water~~ 74764  
~~system on January 1, 1994, shall obtain an initial license under~~ 74765  
~~this section in accordance with the following schedule:~~ 74766

~~(1) If the public water system is a community water system,~~ 74767  
~~not later than January 31, 1994;~~ 74768

~~(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;~~ 74769  
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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.~~ 74772  
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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.~~ 74775  
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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.~~ 74781  
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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.~~ 74788  
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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. 74792  
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(C) A license shall expire on the thirtieth day of January in the year following its issuance. 74798  
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(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license. 74800  
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(E) Through June 30, 2014, each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that. However, an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year. 74804  
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~~(B)(F)~~ Not later than thirty days after receiving a completed application and the appropriate license fee for ~~an initial a license under division (A) of this section, the director shall issue the or license renewal for the a public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:~~ 74812  
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(1) Issue the license or license renewal for the public water system; 74819  
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(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it; 74821  
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(3) Deny the license or license renewal if the director finds that the public water system ~~was not~~ cannot be operated in substantial compliance with this chapter and rules adopted under it. 74824  
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~~(C)(G)~~ The director may condition, suspend, or revoke a license or license renewal issued under this section at any time if the director finds that the public water system was not or will 74828  
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~~not be~~ operated in substantial compliance with this chapter and 74831  
rules adopted under it. ~~The director shall adopt, and may amend~~ 74832  
~~and rescind, rules in accordance with Chapter 119. of the Revised~~ 74833  
~~Code governing such suspensions and revocations.~~ 74834

~~(D)~~(H) The director shall adopt rules in accordance with 74835  
Chapter 119. of the Revised Code establishing procedures and 74836  
requirements governing both of the following: 74837

(1) Information to be included on applications for licenses 74838  
and license renewals issued under this section; 74839

(2) The issuance, conditioning, suspension, revocation, and 74840  
denial of licenses and license renewals under this section. 74841

(I)(1) As used in division ~~(D)~~(I) of this section, "church" 74842  
means a fellowship of believers, congregation, society, 74843  
corporation, convention, or association that is formed primarily 74844  
or exclusively for religious purposes and that is not formed or 74845  
operated for the private profit of any person. 74846

(2) This section does not apply to a church that operates or 74847  
maintains a public water system solely to provide water for that 74848  
church or for a campground that is owned by the church and 74849  
operated primarily or exclusively for members of the church and 74850  
their families. ~~A church that, on or before March 5, 1996, has~~ 74851  
~~obtained a license under this section for such a public water~~ 74852  
~~system need not obtain a license renewal under this section.~~ 74853

~~(E)~~(J) This section does not apply to any public or nonpublic 74854  
school that meets minimum standards of the state board of 74855  
education that operates or maintains a public water system solely 74856  
to provide water for that school. 74857

~~(F)~~(K) The environmental protection agency shall collect well 74858  
log filing fees on behalf of the division of soil and water 74859  
resources in the department of natural resources in accordance 74860  
with section 1521.05 of the Revised Code and rules adopted under 74861

it. The fees shall be submitted to the division quarterly as 74862  
provided in those rules. 74863

**Sec. 6111.46.** (A) The environmental protection agency shall 74864  
exercise general supervision of the treatment and disposal of 74865  
sewage and industrial wastes and the operation and maintenance of 74866  
works or means installed for the collection, treatment, and 74867  
disposal of sewage and industrial wastes. Such general supervision 74868  
shall apply to all features of construction, operation, and 74869  
maintenance of the works or means that do or may affect the proper 74870  
treatment and disposal of sewage and industrial wastes. 74871

(B)(1) The agency shall investigate the works or means 74872  
employed in the collection, treatment, and disposal of sewage and 74873  
industrial wastes whenever considered necessary or whenever 74874  
requested to do so by local health officials and may issue and 74875  
enforce orders and shall adopt rules governing the operation and 74876  
maintenance of the works or means of treatment and disposal of 74877  
such sewage and industrial wastes. In adopting rules under this 74878  
section, the agency shall establish standards governing the 74879  
construction, operation, and maintenance of the works or means of 74880  
collection, treatment, and disposal of sewage that is generated at 74881  
recreational vehicle parks, recreation camps, combined park-camps, 74882  
and temporary park-camps that are separate from such standards 74883  
relative to manufactured home parks. 74884

(2) As used in division (B)(1) of this section: 74885

(a) "Manufactured home parks" has the same meaning as in 74886  
section ~~3733.01~~ 4781.01 of the Revised Code. 74887

(b) "Recreational vehicle parks," "recreation camps," 74888  
"combined park-camps," and "temporary park-camps" have the same 74889  
meanings as in section 3729.01 of the Revised Code. 74890

(C) The agency may require the submission of records and data 74891

of construction, operation, and maintenance, including plans and 74892  
descriptions of existing works or means of treatment and disposal 74893  
of such sewage and industrial wastes. When the agency requires the 74894  
submission of such records or information, the public officials or 74895  
person, firm, or corporation having the works in charge shall 74896  
comply promptly with that order. 74897

**Sec. 6117.39.** (A) Except as provided in division (B) of this 74898  
section, whenever, in the opinion of the board of county 74899  
commissioners, it is necessary to acquire real estate or any 74900  
interest in real estate for the acquisition, construction, 74901  
maintenance, or operation of any sewer, drainage, or other 74902  
improvement authorized by this chapter, or to acquire the right to 74903  
construct, maintain, and operate the sewer, drainage, or other 74904  
improvement in and upon any property within or outside of a county 74905  
sewer district, it may purchase the real estate, interest in real 74906  
estate, or right by negotiation. If the board and the owner of the 74907  
real estate, interest in real estate, or right are unable to agree 74908  
upon its purchase and sale, or the amount of damages to be awarded 74909  
for it, the board may appropriate the real estate, interest, or 74910  
right in accordance with sections 163.01 to 163.22 of the Revised 74911  
Code, except that the board, in the exercise of the powers granted 74912  
by this section or any other section of this chapter, may not 74913  
appropriate real estate or personal property owned by a municipal 74914  
corporation. 74915

(B)(1) For the purposes of division (B) of this section, 74916  
~~either~~ any of the following constitutes a public exigency: 74917

(a) A finding by the director of environmental protection 74918  
that a public health nuisance caused by an occasion of unavoidable 74919  
urgency and suddenness due to unsanitary conditions compels the 74920  
immediate construction of sewers for the protection of the public 74921  
health and welfare; 74922

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare;

(c) With respect to an affected parcel of property, an improvement required as a result of a federally imposed or state-imposed consent decree that prohibits future sewer inflows, combined sewer overflows, or sewer back-ups.

(2) If the board of county commissioners is unable to purchase property for the purpose of ~~the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health~~ addressing a public exigency pursuant to division (B) of this section, the board of county commissioners may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of county commissioners considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of county commissioners shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for

the purposes of this division shall be exercised in the manner 74955  
provided in sections 163.01 to 163.22 of the Revised Code for an 74956  
appropriation in the time of public exigency. The board's 74957  
resolution and a written copy of the independent appraisal shall 74958  
accompany the petition filed under section 163.05 of the Revised 74959  
Code. 74960

**Sec. 6119.11.** (A) Except as provided in division (B) of this 74961  
section, the board of trustees of a regional water and sewer 74962  
district may condemn for the use of the district any public or 74963  
private land, easement, rights, rights-of-way, franchises, or 74964  
other property within or without the district required by it for 74965  
the accomplishment of its purposes according to the procedure set 74966  
forth in sections 163.01 to 163.22 of the Revised Code. 74967

(B)(1) For the purposes of division (B) of this section, 74968  
~~either~~ any of the following constitutes a public exigency: 74969

(a) A finding by the director of environmental protection 74970  
that a public health nuisance caused by an occasion of unavoidable 74971  
urgency and suddenness due to unsanitary conditions compels the 74972  
immediate construction of sewers for the protection of the public 74973  
health and welfare; 74974

(b) The issuance of an order by the board of health of a 74975  
health district to mitigate or abate a public health nuisance that 74976  
is caused by an occasion of unavoidable urgency and suddenness due 74977  
to unsanitary conditions and compels the immediate construction of 74978  
sewers for the protection of the public health and welfare; 74979

(c) With respect to an affected parcel of property, an 74980  
improvement required as a result of a federally imposed or 74981  
state-imposed consent decree that prohibits future sewer inflows, 74982  
combined sewer overflows, or sewer back-ups. 74983

(2) If the board of trustees of a regional water and sewer 74984

district is unable to purchase property for the purpose of the 74985  
~~construction of sewers to mitigate or abate the public health~~ 74986  
~~nuisance that is the subject of a finding of the director or an~~ 74987  
~~order of the board of health~~ addressing a public exigency pursuant 74988  
to division (B) of this section, the board of trustees may adopt a 74989  
resolution finding that it is necessary for the protection of the 74990  
public health and welfare to appropriate property that the board 74991  
of trustees considers needed for that purpose. The resolution 74992  
shall contain a definite, accurate, and detailed description of 74993  
the property and the name and place of residence, if known or with 74994  
reasonable diligence ascertainable, of the owners of the property 74995  
to be appropriated. 74996

The board of trustees shall fix in its resolution what it 74997  
considers to be the value of the property to be appropriated, 74998  
which shall be the board's determination of the compensation for 74999  
the property and shall be supported by an independent appraisal, 75000  
together with any damages to the residue. The board shall deposit 75001  
the compensation so determined, together with an amount for the 75002  
damages to the residue, with the probate court or the court of 75003  
common pleas of the county in which the property, or a part of it, 75004  
is situated. Except as otherwise provided in this division, the 75005  
power to appropriate property for the purposes of this division 75006  
shall be exercised in the manner provided in sections 163.01 to 75007  
163.22 of the Revised Code for an appropriation in the time of 75008  
public exigency. The board's resolution and a written copy of the 75009  
independent appraisal shall accompany the petition filed under 75010  
section 163.05 of the Revised Code. 75011

**Section 101.02.** That existing sections 7.10, 7.16, 9.34, 75012  
102.02, 103.05, 105.41, 107.54, 109.33, 109.57, 109.572, 109.801, 75013  
119.032, 121.04, 121.08, 121.083, 121.084, 123.01, 123.011, 75014  
123.024, 123.04, 123.07, 123.08, 123.09, 123.10, 123.101, 123.11, 75015  
123.13, 123.14, 123.15, 123.152, 123.17, 123.21, 123.46, 123.47, 75016

123.48, 123.49, 123.77, 124.04, 124.06, 124.11, 124.12, 124.14, 75017  
124.231, 124.241, 124.25, 124.26, 124.27, 124.30, 124.31, 125.082, 75018  
125.14, 126.14, 135.35, 140.01, 140.03, 140.05, 140.08, 145.01, 75019  
145.012, 149.43, 151.01, 152.18, 152.24, 153.01, 153.011, 153.013, 75020  
153.02, 153.04, 153.06, 153.07, 153.08, 153.09, 153.11, 153.12, 75021  
153.14, 153.16, 153.17, 153.502, 153.503, 153.53, 154.01, 167.04, 75022  
173.14, 173.21, 173.23, 173.26, 173.27, 173.391, 173.394, 173.40, 75023  
173.42, 173.45, 173.46, 185.01, 185.02, 185.03, 185.05, 185.06, 75024  
185.07, 185.09, 185.12, 189.04, 189.05, 189.06, 189.08, 306.04, 75025  
306.36, 306.55, 307.05, 307.051, 307.055, 313.121, 313.122, 75026  
313.16, 329.01, 329.40, 329.41, 329.42, 329.43, 329.44, 329.45, 75027  
329.46, 330.04, 339.091, 340.03, 340.05, 340.091, 505.37, 505.375, 75028  
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955.16, 955.26, 991.02, 1121.23, 1155.03, 1163.05, 1315.141, 75030  
1317.05, 1321.37, 1321.52, 1321.53, 1321.531, 1322.02, 1322.03, 75031  
1322.031, 1345.05, 1501.04, 1502.01, 1502.02, 1502.03, 1502.04, 75032  
1502.05, 1502.06, 1502.07, 1502.12, 1502.99, 1503.012, 1503.43, 75033  
1506.42, 1509.071, 1533.10, 1541.26, 1551.33, 1555.02, 1555.03, 75034  
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1909.11, 1923.01, 1923.02, 1923.061, 1923.15, 2151.33, 2151.412, 75037  
2151.86, 2152.121, 2152.22, 2301.01, 2301.27, 2301.271, 2301.571, 75038  
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2743.02, 2743.10, 2746.01, 2901.01, 2903.33, 2907.29, 2909.21, 75040  
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3383.07, 3517.20, 3701.021, 3701.023, 3701.024, 3701.025, 3701.03, 75050  
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3710.051, 3710.06, 3710.07, 3710.08, 3710.09, 3710.10, 3710.12, 75063  
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3713.05, 3713.06, 3713.07, 3713.08, 3713.09, 3713.10, 3714.073, 75066  
3715.01, 3715.025, 3715.60, 3715.61, 3715.62, 3715.68, 3715.87, 75067  
3716.01, 3716.03, 3717.01, 3717.04, 3717.05, 3717.07, 3717.45, 75068  
3717.51, 3718.02, 3718.021, 3718.022, 3718.05, 3718.06, 3718.07, 75069  
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3721.07, 3721.071, 3721.121, 3721.13, 3721.21, 3721.28, 3721.29, 75071  
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3733.10, 3733.101, 3733.11, 3733.12, 3733.121, 3733.122, 3733.123, 75076  
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3733.20, 3733.41, 3733.42, 3734.01, 3734.131, 3734.15, 3734.51, 75078  
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4511.78, 4511.98, 4513.18, 4513.263, 4513.50, 4712.01, 4723.481, 75097  
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4765.33, 4765.37, 4765.38, 4765.39, 4765.40, 4765.42, 4765.48, 75105  
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5111.033, 5111.034, 5111.06, 5111.091, 5111.113, 5111.16, 75119  
5111.161, 5111.171, 5111.20, 5111.222, 5111.23, 5111.242, 75120  
5111.254, 5111.862, 5111.874, 5111.877, 5111.878, 5111.89, 75121  
5111.894, 5111.941, 5111.97, 5112.31, 5112.33, 5112.341, 5112.37, 75122  
5112.371, 5112.39, 5119.22, 5119.61, 5119.69, 5119.691, 5119.99, 75123  
5120.036, 5120.105, 5120.132, 5120.66, 5122.31, 5123.01, 5123.033, 75124  
5123.042, 5123.044, 5123.0412, 5123.0414, 5123.0415, 5123.081, 75125  
5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 5123.166, 75126  
5123.169, 5123.171, 5123.19, 5123.31, 5123.38, 5123.41, 5123.50, 75127  
5123.51, 5123.542, 5123.61, 5123.89, 5126.023, 5126.0220, 75128  
5126.0221, 5126.043, 5126.046, 5126.055, 5126.13, 5126.15, 75129  
5126.20, 5126.21, 5126.22, 5126.25, 5126.251, 5126.51, 5139.41, 75130  
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5503.02, 5503.04, 5503.21, 5503.22, 5503.23, 5503.34, 5516.02, 75132  
5516.06, 5701.13, 5703.05, 5705.08, 5705.19, 5705.25, 5705.28, 75133  
5705.30, 5705.34, 5705.35, 5705.38, 5709.084, 5709.12, 5709.121, 75134  
5709.212, 5709.43, 5709.62, 5709.63, 5709.632, 5709.73, 5709.75, 75135  
5709.80, 5713.03, 5719.13, 5725.14, 5725.15, 5725.16, 5725.17, 75136  
5725.22, 5725.221, 5731.39, 5733.064, 5739.01, 5739.02, 5743.03, 75137  
5743.031, 5751.033, 5751.12, 6109.21, 6111.46, 6117.39, and 75138  
6119.11 of the Revised Code are hereby repealed. 75139

**Section 105.01.** That sections 185.04, 185.08, 185.10, 185.11, 75140  
2909.32, 2909.33, 2909.34, 3301.68, 3333.049, 3333.0411, 3333.33, 75141  
3333.70, 3333.80, 3334.111, 3354.23, 3701.02, 3701.032, 3701.12, 75142  
3701.33, 3701.34, 3701.35, 3702.521, 3702.5210, 3702.5211, 75143

3702.5212, 3702.5213, 3702.58, 3702.591, 3733.01, 3733.031, 75144  
3745.111, 3781.183, 3791.043, 4113.11, 4121.18, 4766.02, 4766.20, 75145  
4905.80, 4905.801, 4905.81, 4905.82, 4905.83, 4919.75, 4919.76, 75146  
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4921.04, 4921.05, 4921.06, 4921.07, 4921.08, 4921.09, 4921.10, 75148  
4921.101, 4921.11, 4921.12, 4921.13, 4921.14, 4921.15, 4921.16, 75149  
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4923.02, 4923.03, 4923.04, 4923.05, 4923.06, 4923.07, 4923.08, 75153  
4923.09, 4923.10, 4923.11, 4923.12, 4923.13, 4923.14, 4923.17, 75154  
4923.20, 4923.26, 4923.99, 5111.651, 5119.614, 5119.692, 5119.693, 75155  
5119.70, 5119.701, 5119.71, 5119.711, 5119.712, 5119.72, 5119.73, 75156  
5119.731, 5119.74, 5119.75, 5119.76, 5119.77, 5119.78, 5119.79, 75157  
5119.80, 5119.81, 5119.82, 5119.83, 5119.84, 5119.85, 5119.86, 75158  
5119.87, 5119.88, 5123.082, 5123.083, 5123.192, 5126.0222, 75159  
5126.252, 5126.26, 5126.27, 5126.28, 5126.281, 5126.29, and 75160  
5501.09 of the Revised Code are hereby repealed. 75161

75162

**Section 105.10.** Section 3356.10 of the Revised Code is hereby 75163  
repealed, effective five years after the effective date of that 75164  
section. 75165

**Section 110.10.** That the version of section 5122.31 of the 75166  
Revised Code that is scheduled to take effect on October 1, 2012, 75167  
be amended to read as follows: 75168

**Sec. 5122.31.** (A) All certificates, applications, records, 75169  
and reports made for the purpose of this chapter and sections 75170  
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 75171  
Code, other than court journal entries or court docket entries, 75172  
and directly or indirectly identifying a patient or former patient 75173

or person whose hospitalization has been sought under this 75174  
chapter, shall be kept confidential and shall not be disclosed by 75175  
any person except: 75176

(1) If the person identified, or the person's legal guardian, 75177  
if any, or if the person is a minor, the person's parent or legal 75178  
guardian, consents, and if the disclosure is in the best interests 75179  
of the person, as may be determined by the court for judicial 75180  
records and by the chief clinical officer for medical records; 75181

(2) When disclosure is provided for in this chapter or 75182  
section 5123.601 of the Revised Code; 75183

(3) That hospitals, boards of alcohol, drug addiction, and 75184  
mental health services, and community mental health agencies may 75185  
release necessary medical information to insurers and other 75186  
third-party payers, including government entities responsible for 75187  
processing and authorizing payment, to obtain payment for goods 75188  
and services furnished to the patient; 75189

(4) Pursuant to a court order signed by a judge; 75190

(5) That a patient shall be granted access to the patient's 75191  
own psychiatric and medical records, unless access specifically is 75192  
restricted in a patient's treatment plan for clear treatment 75193  
reasons; 75194

(6) That hospitals and other institutions and facilities 75195  
within the department of mental health may exchange psychiatric 75196  
records and other pertinent information with other hospitals, 75197  
institutions, and facilities of the department, and with community 75198  
mental health agencies and boards of alcohol, drug addiction, and 75199  
mental health services with which the department has a current 75200  
agreement for patient care or services. Records and information 75201  
that may be released pursuant to this division shall be limited to 75202  
medication history, physical health status and history, financial 75203

status, summary of course of treatment in the hospital, summary of 75204  
treatment needs, and a discharge summary, if any. 75205

(7) That hospitals within the department, other institutions 75206  
and facilities within the department, hospitals licensed by the 75207  
department under section 5119.20 of the Revised Code, and 75208  
community mental health agencies may exchange psychiatric records 75209  
and other pertinent information with payers and other providers of 75210  
treatment and health services if the purpose of the exchange is to 75211  
facilitate continuity of care for a patient; 75212

(8) That a patient's family member who is involved in the 75213  
provision, planning, and monitoring of services to the patient may 75214  
receive medication information, a summary of the patient's 75215  
diagnosis and prognosis, and a list of the services and personnel 75216  
available to assist the patient and the patient's family, if the 75217  
patient's treating physician determines that the disclosure would 75218  
be in the best interests of the patient. No such disclosure shall 75219  
be made unless the patient is notified first and receives the 75220  
information and does not object to the disclosure. 75221

(9) That community mental health agencies may exchange 75222  
psychiatric records and certain other information with the board 75223  
of alcohol, drug addiction, and mental health services and other 75224  
agencies in order to provide services to a person involuntarily 75225  
committed to a board. Release of records under this division shall 75226  
be limited to medication history, physical health status and 75227  
history, financial status, summary of course of treatment, summary 75228  
of treatment needs, and discharge summary, if any. 75229

(10) That information may be disclosed to the executor or the 75230  
administrator of an estate of a deceased patient when the 75231  
information is necessary to administer the estate; 75232

(11) That records in the possession of the Ohio historical 75233  
society may be released to the closest living relative of a 75234

deceased patient upon request of that relative; 75235

(12) That information may be disclosed to staff members of 75236  
the appropriate board or to staff members designated by the 75237  
director of mental health for the purpose of evaluating the 75238  
quality, effectiveness, and efficiency of services and determining 75239  
if the services meet minimum standards. Information obtained 75240  
during such evaluations shall not be retained with the name of any 75241  
patient. 75242

(13) That records pertaining to the patient's diagnosis, 75243  
course of treatment, treatment needs, and prognosis shall be 75244  
disclosed and released to the appropriate prosecuting attorney if 75245  
the patient was committed pursuant to section 2945.38, 2945.39, 75246  
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 75247  
attorney designated by the board for proceedings pursuant to 75248  
involuntary commitment under this chapter. 75249

(14) That the department of mental health may exchange 75250  
psychiatric hospitalization records, other mental health treatment 75251  
records, and other pertinent information with the department of 75252  
rehabilitation and correction to ensure continuity of care for 75253  
inmates who are receiving mental health services in an institution 75254  
of the department of rehabilitation and correction. The department 75255  
shall not disclose those records unless the inmate is notified, 75256  
receives the information, and does not object to the disclosure. 75257  
The release of records under this division is limited to records 75258  
regarding an inmate's medication history, physical health status 75259  
and history, summary of course of treatment, summary of treatment 75260  
needs, and a discharge summary, if any. 75261

(15) That a community mental health agency that ceases to 75262  
operate may transfer to either a community mental health agency 75263  
that assumes its caseload or to the board of alcohol, drug 75264  
addiction, and mental health services of the service district in 75265  
which the patient resided at the time services were most recently 75266

provided any treatment records that have not been transferred 75267  
elsewhere at the patient's request. 75268

(B) Before records are disclosed pursuant to divisions 75269  
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 75270  
records shall attempt to obtain the patient's consent for the 75271  
disclosure. No person shall reveal the contents of a medical 75272  
record of a patient except as authorized by law. 75273

(C) The managing officer of a hospital who releases necessary 75274  
medical information under division (A)(3) of this section to allow 75275  
an insurance carrier or other third party payor to comply with 75276  
section 5121.43 of the Revised Code shall neither be subject to 75277  
criminal nor civil liability. 75278

**Section 110.11.** That the existing version of section 5122.31 75279  
of the Revised Code that is scheduled to take effect on October 1, 75280  
2012, is hereby repealed. 75281

**Section 110.12.** Sections 110.10 and 110.11 of this act take 75282  
effect October 1, 2012. 75283

**Section 110.20.** That the version of section 5123.19 of the 75284  
Revised Code that is scheduled to take effect on October 1, 2012, 75285  
be amended to read as follows: 75286

**Sec. 5123.19.** (A) As used in ~~this section and in~~ sections 75287  
~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.19 to~~ 75288  
5123.20 of the Revised Code: 75289

(1)(a) ~~"Residential facility" means a home or facility in~~ 75290  
~~which a mentally retarded or developmentally disabled person~~ 75291  
~~resides, except the home of a relative or legal guardian in which~~ 75292  
~~a mentally retarded or developmentally disabled person resides, a~~ 75293  
~~respite care home certified under section 5126.05 of the Revised~~ 75294

~~Code, a county home or district home operated pursuant to Chapter 75295  
5155. of the Revised Code, or a dwelling in which the only 75296  
mentally retarded or developmentally disabled residents are in an 75297  
independent living arrangement or are being provided supported 75298  
living. 75299~~

~~(b) "Intermediate care facility for the mentally retarded" 75300  
means a residential facility that is considered an intermediate 75301  
care facility for the mentally retarded for the purposes of 75302  
Chapter 5111. of the Revised Code. 75303~~

~~(2) "Political subdivision" means a municipal corporation, 75304  
county, or township. 75305~~

~~(3) "Independent living arrangement" means an arrangement in 75306  
which a mentally retarded or developmentally disabled person 75307  
resides in an individualized setting chosen by the person or the 75308  
person's guardian, which is not dedicated principally to the 75309  
provision of residential services for mentally retarded or 75310  
developmentally disabled persons, and for which no financial 75311  
support is received for rendering such service from any 75312  
governmental agency by a provider of residential services. 75313~~

~~(4)(2) "Intermediate care facility for the mentally retarded" 75314  
has the same meaning as in section 1905(d) of the "Social Security 75315  
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 75316~~

~~(3) "Licensee" means the person or government agency that has 75317  
applied for a license to operate a residential facility and to 75318  
which the license was issued under this section. 75319~~

~~(4) "Political subdivision" means a municipal corporation, 75320  
county, or township. 75321~~

~~(5) "Related party" has the same meaning as in section 75322  
5123.16 of the Revised Code except that "provider" as used in the 75323  
definition of "related party" means a person or government entity 75324  
that held or applied for a license to operate a residential 75325~~

facility, rather than a person or government entity certified to provide supported living.

(6)(a) Except as provided in division (A)(6)(b) of this section, "residential facility" means a home or facility, including a facility certified as an intermediate care facility for the mentally retarded, in which an individual with mental retardation or a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~5119.73~~, 5103.03, ~~or 5119.20~~, or division (A)(9)(b) of section 5119.22 of the Revised Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.~~

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(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. 75388

(3) The director may issue an order for the suspension of 75389  
admissions to a facility for any violation that may result in 75390  
sanctions under division (D)(1) of this section and for any other 75391  
violation specified in rules adopted under division (H)(2) of this 75392  
section. If the suspension of admissions is imposed for a 75393  
violation that may result in sanctions under division (D)(1) of 75394  
this section, the director may impose the suspension before 75395  
providing an opportunity for an adjudication under Chapter 119. of 75396  
the Revised Code. The director shall lift an order for the 75397  
suspension of admissions when the director determines that the 75398  
violation that formed the basis for the order has been corrected. 75399

(4) The director may order the placement of a monitor at a 75400  
residential facility for any violation specified in rules adopted 75401  
under division (H)(2) of this section. The director shall lift the 75402  
order when the director determines that the violation that formed 75403  
the basis for the order has been corrected. 75404

(5) If the director determines that two or more residential 75405  
facilities owned or operated by the same person or government 75406  
entity are not being operated in compliance with a provision of 75407  
this chapter that applies to residential facilities or the rules 75408  
adopted under such a provision, and the director's findings are 75409  
based on the same or a substantially similar action, practice, 75410  
circumstance, or incident that creates a substantial risk to the 75411  
health and safety of the residents, the director shall conduct a 75412  
survey as soon as practicable at each residential facility owned 75413  
or operated by that person or government entity. The director may 75414  
take any action authorized by this section with respect to any 75415  
facility found to be operating in violation of a provision of this 75416  
chapter that applies to residential facilities or the rules 75417  
adopted under such a provision. 75418

(6) When the director initiates license revocation 75419

proceedings, no opportunity for submitting a plan of correction 75420  
shall be given. The director shall notify the licensee by letter 75421  
of the initiation of the proceedings. The letter shall list the 75422  
deficiencies of the residential facility and inform the licensee 75423  
that no plan of correction will be accepted. The director shall 75424  
also send a copy of the letter to the county board of 75425  
developmental disabilities. The county board shall send a copy of 75426  
the letter to each of the following: 75427

(a) Each resident who receives services from the licensee; 75428

(b) The guardian of each resident who receives services from 75429  
the licensee if the resident has a guardian; 75430

(c) The parent or guardian of each resident who receives 75431  
services from the licensee if the resident is a minor. 75432

(7) Pursuant to rules which shall be adopted in accordance 75433  
with Chapter 119. of the Revised Code, the director may order the 75434  
immediate removal of residents from a residential facility 75435  
whenever conditions at the facility present an immediate danger of 75436  
physical or psychological harm to the residents. 75437

(8) In determining whether a residential facility is being 75438  
operated in compliance with a provision of this chapter that 75439  
applies to residential facilities or the rules adopted under such 75440  
a provision, or whether conditions at a residential facility 75441  
present an immediate danger of physical or psychological harm to 75442  
the residents, the director may rely on information obtained by a 75443  
county board of developmental disabilities or other governmental 75444  
agencies. 75445

(9) In proceedings initiated to deny, refuse to renew, or 75446  
revoke licenses, the director may deny, refuse to renew, or revoke 75447  
a license regardless of whether some or all of the deficiencies 75448  
that prompted the proceedings have been corrected at the time of 75449  
the hearing. 75450

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not

later than thirty days after the department receives the request. 75483

(c) After commencing, the hearing shall continue 75484  
uninterrupted, except for Saturdays, Sundays, and legal holidays, 75485  
unless other interruptions are agreed to by the licensee and the 75486  
director. 75487

(d) If the hearing is conducted by a hearing examiner, the 75488  
hearing examiner shall file a report and recommendations not later 75489  
than ten days after the last of the following: 75490

(i) The close of the hearing; 75491

(ii) If a transcript of the proceedings is ordered, the 75492  
hearing examiner receives the transcript; 75493

(iii) If post-hearing briefs are timely filed, the hearing 75494  
examiner receives the briefs. 75495

(e) A copy of the written report and recommendation of the 75496  
hearing examiner shall be sent, by certified mail, to the licensee 75497  
and the licensee's attorney, if applicable, not later than five 75498  
days after the report is filed. 75499

(f) Not later than five days after the hearing examiner files 75500  
the report and recommendations, the licensee may file objections 75501  
to the report and recommendations. 75502

(g) Not later than fifteen days after the hearing examiner 75503  
files the report and recommendations, the director shall issue an 75504  
order approving, modifying, or disapproving the report and 75505  
recommendations. 75506

(h) Notwithstanding the pendency of the hearing, the director 75507  
shall lift the order for the suspension of admissions when the 75508  
director determines that the violation that formed the basis for 75509  
the order has been corrected. 75510

(G) Neither a person or government agency whose application 75511  
for a license to operate a residential facility is denied nor a 75512

related party of the person or government agency may apply for a 75513  
license to operate a residential facility before the date that is 75514  
one year after the date of the denial. Neither a licensee whose 75515  
residential facility license is revoked nor a related party of the 75516  
licensee may apply for a residential facility license before the 75517  
date that is five years after the date of the revocation. 75518

(H) In accordance with Chapter 119. of the Revised Code, the 75519  
director shall adopt and may amend and rescind rules for licensing 75520  
and regulating the operation of residential facilities, ~~including~~ 75521  
~~intermediate care facilities for the mentally retarded~~. The rules 75522  
for residential facilities that are intermediate care facilities 75523  
for the mentally retarded may differ from those for other 75524  
residential facilities. The rules shall establish and specify the 75525  
following: 75526

(1) Procedures and criteria for issuing and renewing 75527  
licenses, including procedures and criteria for determining the 75528  
length of the licensing period that the director must specify for 75529  
each license when it is issued or renewed; 75530

(2) Procedures and criteria for denying, refusing to renew, 75531  
terminating, and revoking licenses and for ordering the suspension 75532  
of admissions to a facility, placement of a monitor at a facility, 75533  
and the immediate removal of residents from a facility; 75534

(3) Fees for issuing and renewing licenses, which shall be 75535  
deposited into the program fee fund created under section 5123.033 75536  
of the Revised Code; 75537

(4) Procedures for surveying residential facilities; 75538

(5) Requirements for the training of residential facility 75539  
personnel; 75540

(6) Classifications for the various types of residential 75541  
facilities; 75542

(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;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(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.

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 designee in conducting the survey.

Following each survey, unless the director initiates a

license revocation proceeding, the director or the director's 75574  
designee shall provide the licensee with a report listing any 75575  
deficiencies, specifying a timetable within which the licensee 75576  
shall submit a plan of correction describing how the deficiencies 75577  
will be corrected, and, when appropriate, specifying a timetable 75578  
within which the licensee must correct the deficiencies. After a 75579  
plan of correction is submitted, the director or the director's 75580  
designee shall approve or disapprove the plan. A copy of the 75581  
report and any approved plan of correction shall be provided to 75582  
any person who requests it. 75583

The director shall initiate disciplinary action against any 75584  
department employee who notifies or causes the notification to any 75585  
unauthorized person of an unannounced survey of a residential 75586  
facility by an authorized representative of the department. 75587

(J) In addition to any other information which may be 75588  
required of applicants for a license pursuant to this section, the 75589  
director shall require each applicant to provide a copy of an 75590  
approved plan for a proposed residential facility pursuant to 75591  
section 5123.042 of the Revised Code. This division does not apply 75592  
to renewal of a license or to an applicant for an initial or 75593  
modified license who meets the requirements of section ~~5123.193~~ or 75594  
5123.197 of the Revised Code. 75595

(K) A licensee shall notify the owner of the building in 75596  
which the licensee's residential facility is located of any 75597  
significant change in the identity of the licensee or management 75598  
contractor before the effective date of the change if the licensee 75599  
is not the owner of the building. 75600

Pursuant to rules which shall be adopted in accordance with 75601  
Chapter 119. of the Revised Code, the director may require 75602  
notification to the department of any significant change in the 75603  
ownership of a residential facility or in the identity of the 75604  
licensee or management contractor. If the director determines that 75605

a significant change of ownership is proposed, the director shall 75606  
consider the proposed change to be an application for development 75607  
by a new operator pursuant to section 5123.042 of the Revised Code 75608  
and shall advise the applicant within sixty days of the 75609  
notification that the current license shall continue in effect or 75610  
a new license will be required pursuant to this section. If the 75611  
director requires a new license, the director shall permit the 75612  
facility to continue to operate under the current license until 75613  
the new license is issued, unless the current license is revoked, 75614  
refused to be renewed, or terminated in accordance with Chapter 75615  
119. of the Revised Code. 75616

(L) A county board of developmental disabilities and any 75617  
interested person may file complaints alleging violations of 75618  
statute or department rule relating to residential facilities with 75619  
the department. All complaints shall be in writing and shall state 75620  
the facts constituting the basis of the allegation. The department 75621  
shall not reveal the source of any complaint unless the 75622  
complainant agrees in writing to waive the right to 75623  
confidentiality or until so ordered by a court of competent 75624  
jurisdiction. 75625

The department shall adopt rules in accordance with Chapter 75626  
119. of the Revised Code establishing procedures for the receipt, 75627  
referral, investigation, and disposition of complaints filed with 75628  
the department under this division. 75629

(M) The department shall establish procedures for the 75630  
notification of interested parties of the transfer or interim care 75631  
of residents from residential facilities that are closing or are 75632  
losing their license. 75633

(N) Before issuing a license under this section to a 75634  
residential facility that will accommodate at any time more than 75635  
one mentally retarded or developmentally disabled individual, the 75636  
director shall, by first class mail, notify the following: 75637

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation; 75638  
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(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees. 75641  
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The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance. 75645  
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Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license. 75649  
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(0) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and 75662  
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architectural compatibility requirements that are uniformly 75670  
imposed upon all single-family residences within the district or 75671  
zone. 75672

(P) Any person may operate a licensed residential facility 75673  
that provides room and board, personal care, habilitation 75674  
services, and supervision in a family setting for at least nine 75675  
but not more than sixteen persons with mental retardation or a 75676  
developmental disability as a permitted use in any multiple-family 75677  
residential district or zone of any political subdivision, except 75678  
that a political subdivision that has enacted a zoning ordinance 75679  
or resolution establishing planned unit development districts may 75680  
exclude these residential facilities from those districts, and a 75681  
political subdivision that has enacted a zoning ordinance or 75682  
resolution may regulate these residential facilities in 75683  
multiple-family residential districts or zones as a conditionally 75684  
permitted use or special exception, in either case, under 75685  
reasonable and specific standards and conditions set out in the 75686  
zoning ordinance or resolution to: 75687

(1) Require the architectural design and site layout of the 75688  
residential facility and the location, nature, and height of any 75689  
walls, screens, and fences to be compatible with adjoining land 75690  
uses and the residential character of the neighborhood; 75691

(2) Require compliance with yard, parking, and sign 75692  
regulation; 75693

(3) Limit excessive concentration of these residential 75694  
facilities. 75695

(Q) This section does not prohibit a political subdivision 75696  
from applying to residential facilities nondiscriminatory 75697  
regulations requiring compliance with health, fire, and safety 75698  
regulations and building standards and regulations. 75699

(R) Divisions (O) and (P) of this section are not applicable 75700

to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility

shall be permitted to serve the same number of persons being 75732  
served by the facility on the effective date of the rules or the 75733  
number of persons for which the facility is authorized pursuant to 75734  
a current application for a certificate of need with a letter of 75735  
support from the department of developmental disabilities and 75736  
which is in the review process prior to April 4, 1986. 75737

(U) The director or the director's designee may enter at any 75738  
time, for purposes of investigation, any home, facility, or other 75739  
structure that has been reported to the director or that the 75740  
director has reasonable cause to believe is being operated as a 75741  
residential facility without a license issued under this section. 75742

The director may petition the court of common pleas of the 75743  
county in which an unlicensed residential facility is located for 75744  
an order enjoining the person or governmental agency operating the 75745  
facility from continuing to operate without a license. The court 75746  
may grant the injunction on a showing that the person or 75747  
governmental agency named in the petition is operating a 75748  
residential facility without a license. The court may grant the 75749  
injunction, regardless of whether the residential facility meets 75750  
the requirements for receiving a license under this section. 75751

**Section 110.21.** That the existing version of section 5123.19 75752  
of the Revised Code that is scheduled to take effect on October 1, 75753  
2012, is hereby repealed. 75754

**Section 110.22.** Sections 110.20 and 110.21 of this act take 75755  
effect October 1, 2012. 75756

**Section 110.30.** That the version of section 5123.61 of the 75757  
Revised Code that is scheduled to take effect on October 1, 2012, 75758  
be amended to read as follows: 75759

**Sec. 5123.61.** (A) As used in this section: 75760

(1) "Law enforcement agency" means the state highway patrol, 75761  
the police department of a municipal corporation, or a county 75762  
sheriff. 75763

(2) "Abuse" has the same meaning as in section 5123.50 of the 75764  
Revised Code, except that it includes a misappropriation, as 75765  
defined in that section. 75766

(3) "Neglect" has the same meaning as in section 5123.50 of 75767  
the Revised Code. 75768

(B) The department of developmental disabilities shall 75769  
establish a registry office for the purpose of maintaining reports 75770  
of abuse, neglect, and other major unusual incidents made to the 75771  
department under this section and reports received from county 75772  
boards of developmental disabilities under section 5126.31 of the 75773  
Revised Code. The department shall establish committees to review 75774  
reports of abuse, neglect, and other major unusual incidents. 75775

(C)(1) Any person listed in division (C)(2) of this section, 75776  
having reason to believe that a person with mental retardation or 75777  
a developmental disability has suffered or faces a substantial 75778  
risk of suffering any wound, injury, disability, or condition of 75779  
such a nature as to reasonably indicate abuse or neglect of that 75780  
person, shall immediately report or cause reports to be made of 75781  
such information to the entity specified in this division. Except 75782  
as provided in section 5120.173 of the Revised Code or as 75783  
otherwise provided in this division, the person making the report 75784  
shall make it to a law enforcement agency or to the county board 75785  
of developmental disabilities. If the report concerns a resident 75786  
of a facility operated by the department of developmental 75787  
disabilities the report shall be made either to a law enforcement 75788  
agency or to the department. If the report concerns any act or 75789  
omission of an employee of a county board of developmental 75790  
disabilities, the report immediately shall be made to the 75791  
department and to the county board. 75792

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of ~~an adult care~~ a residential facility licensed under ~~Chapter 3722.~~ section 5119.22 of the Revised Code that provides accommodations, supervision, and person care services for three to sixteen unrelated adults, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A ~~clergyman~~ member of the clergy who is employed in a position that includes providing specialized services to an

individual with mental retardation or another developmental 75824  
disability, while acting in an official or professional capacity 75825  
in that position, or a person who is employed in a position that 75826  
includes providing specialized services to an individual with 75827  
mental retardation or another developmental disability and who, 75828  
while acting in an official or professional capacity, renders 75829  
spiritual treatment through prayer in accordance with the tenets 75830  
of an organized religion. 75831

(3)(a) The reporting requirements of this division do not 75832  
apply to employees of the Ohio protection and advocacy system. 75833

(b) An attorney or physician is not required to make a report 75834  
pursuant to division (C)(1) of this section concerning any 75835  
communication the attorney or physician receives from a client or 75836  
patient in an attorney-client or physician-patient relationship, 75837  
if, in accordance with division (A) or (B) of section 2317.02 of 75838  
the Revised Code, the attorney or physician could not testify with 75839  
respect to that communication in a civil or criminal proceeding, 75840  
except that the client or patient is deemed to have waived any 75841  
testimonial privilege under division (A) or (B) of section 2317.02 75842  
of the Revised Code with respect to that communication and the 75843  
attorney or physician shall make a report pursuant to division 75844  
(C)(1) of this section, if both of the following apply: 75845

(i) The client or patient, at the time of the communication, 75846  
is a person with mental retardation or a developmental disability. 75847

(ii) The attorney or physician knows or suspects, as a result 75848  
of the communication or any observations made during that 75849  
communication, that the client or patient has suffered or faces a 75850  
substantial risk of suffering any wound, injury, disability, or 75851  
condition of a nature that reasonably indicates abuse or neglect 75852  
of the client or patient. 75853

(4) Any person who fails to make a report required under 75854

division (C) of this section and who is an MR/DD employee, as 75855  
defined in section 5123.50 of the Revised Code, shall be eligible 75856  
to be included in the registry regarding misappropriation, abuse, 75857  
neglect, or other specified misconduct by MR/DD employees 75858  
established under section 5123.52 of the Revised Code. 75859

(D) The reports required under division (C) of this section 75860  
shall be made forthwith by telephone or in person and shall be 75861  
followed by a written report. The reports shall contain the 75862  
following: 75863

(1) The names and addresses of the person with mental 75864  
retardation or a developmental disability and the person's 75865  
custodian, if known; 75866

(2) The age of the person with mental retardation or a 75867  
developmental disability; 75868

(3) Any other information that would assist in the 75869  
investigation of the report. 75870

(E) When a physician performing services as a member of the 75871  
staff of a hospital or similar institution has reason to believe 75872  
that a person with mental retardation or a developmental 75873  
disability has suffered injury, abuse, or physical neglect, the 75874  
physician shall notify the person in charge of the institution or 75875  
that person's designated delegate, who shall make the necessary 75876  
reports. 75877

(F) Any person having reasonable cause to believe that a 75878  
person with mental retardation or a developmental disability has 75879  
suffered or faces a substantial risk of suffering abuse or neglect 75880  
may report or cause a report to be made of that belief to the 75881  
entity specified in this division. Except as provided in section 75882  
5120.173 of the Revised Code or as otherwise provided in this 75883  
division, the person making the report shall make it to a law 75884  
enforcement agency or the county board of developmental 75885

disabilities. If the person is a resident of a facility operated 75886  
by the department of developmental disabilities, the report shall 75887  
be made to a law enforcement agency or to the department. If the 75888  
report concerns any act or omission of an employee of a county 75889  
board of developmental disabilities, the report immediately shall 75890  
be made to the department and to the county board. 75891

(G)(1) Upon the receipt of a report concerning the possible 75892  
abuse or neglect of a person with mental retardation or a 75893  
developmental disability, the law enforcement agency shall inform 75894  
the county board of developmental disabilities or, if the person 75895  
is a resident of a facility operated by the department of 75896  
developmental disabilities, the director of the department or the 75897  
director's designee. 75898

(2) On receipt of a report under this section that includes 75899  
an allegation of action or inaction that may constitute a crime 75900  
under federal law or the law of this state, the department of 75901  
developmental disabilities shall notify the law enforcement 75902  
agency. 75903

(3) When a county board of developmental disabilities 75904  
receives a report under this section that includes an allegation 75905  
of action or inaction that may constitute a crime under federal 75906  
law or the law of this state, the superintendent of the board or 75907  
an individual the superintendent designates under division (H) of 75908  
this section shall notify the law enforcement agency. The 75909  
superintendent or individual shall notify the department of 75910  
developmental disabilities when it receives any report under this 75911  
section. 75912

(4) When a county board of developmental disabilities 75913  
receives a report under this section and believes that the degree 75914  
of risk to the person is such that the report is an emergency, the 75915  
superintendent of the board or an employee of the board the 75916  
superintendent designates shall attempt a face-to-face contact 75917

with the person with mental retardation or a developmental 75918  
disability who allegedly is the victim within one hour of the 75919  
board's receipt of the report. 75920

(H) The superintendent of the board may designate an 75921  
individual to be responsible for notifying the law enforcement 75922  
agency and the department when the county board receives a report 75923  
under this section. 75924

(I) An adult with mental retardation or a developmental 75925  
disability about whom a report is made may be removed from the 75926  
adult's place of residence only by law enforcement officers who 75927  
consider that the adult's immediate removal is essential to 75928  
protect the adult from further injury or abuse or in accordance 75929  
with the order of a court made pursuant to section 5126.33 of the 75930  
Revised Code. 75931

(J) A law enforcement agency shall investigate each report of 75932  
abuse or neglect it receives under this section. In addition, the 75933  
department, in cooperation with law enforcement officials, shall 75934  
investigate each report regarding a resident of a facility 75935  
operated by the department to determine the circumstances 75936  
surrounding the injury, the cause of the injury, and the person 75937  
responsible. The investigation shall be in accordance with the 75938  
memorandum of understanding prepared under section 5126.058 of the 75939  
Revised Code. The department shall determine, with the registry 75940  
office which shall be maintained by the department, whether prior 75941  
reports have been made concerning an adult with mental retardation 75942  
or a developmental disability or other principals in the case. If 75943  
the department finds that the report involves action or inaction 75944  
that may constitute a crime under federal law or the law of this 75945  
state, it shall submit a report of its investigation, in writing, 75946  
to the law enforcement agency. If the person with mental 75947  
retardation or a developmental disability is an adult, with the 75948  
consent of the adult, the department shall provide such protective 75949

services as are necessary to protect the adult. The law 75950  
enforcement agency shall make a written report of its findings to 75951  
the department. 75952

If the person is an adult and is not a resident of a facility 75953  
operated by the department, the county board of developmental 75954  
disabilities shall review the report of abuse or neglect in 75955  
accordance with sections 5126.30 to 5126.33 of the Revised Code 75956  
and the law enforcement agency shall make the written report of 75957  
its findings to the county board. 75958

(K) Any person or any hospital, institution, school, health 75959  
department, or agency participating in the making of reports 75960  
pursuant to this section, any person participating as a witness in 75961  
an administrative or judicial proceeding resulting from the 75962  
reports, or any person or governmental entity that discharges 75963  
responsibilities under sections 5126.31 to 5126.33 of the Revised 75964  
Code shall be immune from any civil or criminal liability that 75965  
might otherwise be incurred or imposed as a result of such actions 75966  
except liability for perjury, unless the person or governmental 75967  
entity has acted in bad faith or with malicious purpose. 75968

(L) No employer or any person with the authority to do so 75969  
shall discharge, demote, transfer, prepare a negative work 75970  
performance evaluation, reduce pay or benefits, terminate work 75971  
privileges, or take any other action detrimental to an employee or 75972  
retaliate against an employee as a result of the employee's having 75973  
made a report under this section. This division does not preclude 75974  
an employer or person with authority from taking action with 75975  
regard to an employee who has made a report under this section if 75976  
there is another reasonable basis for the action. 75977

(M) Reports made under this section are not public records as 75978  
defined in section 149.43 of the Revised Code. Information 75979  
contained in the reports on request shall be made available to the 75980  
person who is the subject of the report, to the person's legal 75981

counsel, and to agencies authorized to receive information in the 75982  
 report by the department or by a county board of developmental 75983  
 disabilities. 75984

(N) Notwithstanding section 4731.22 of the Revised Code, the 75985  
 physician-patient privilege shall not be a ground for excluding 75986  
 evidence regarding the injuries or physical neglect of a person 75987  
 with mental retardation or a developmental disability or the cause 75988  
 thereof in any judicial proceeding resulting from a report 75989  
 submitted pursuant to this section. 75990

**Section 110.31.** That the existing version of section 5123.61 75991  
 of the Revised Code that is scheduled to take effect on October 1, 75992  
 2012, is hereby repealed. 75993

**Section 110.32.** Sections 110.30 and 110.31 of this act take 75994  
 effect October 1, 2012. 75995

**Section 301.11.** The items set forth in this section are 75996  
 hereby appropriated out of any moneys in the state treasury to the 75997  
 credit of the Clean Ohio Conservation Fund (Fund 7056) that are 75998  
 not otherwise appropriated. 75999

|                                    |                         | Appropriations |       |
|------------------------------------|-------------------------|----------------|-------|
| PWC PUBLIC WORKS COMMISSION        |                         |                | 76000 |
| C15060                             | Clean Ohio Conservation | \$ 36,000,000  | 76001 |
| Total Public Works Commission      |                         | \$ 36,000,000  | 76002 |
| TOTAL Clean Ohio Conservation Fund |                         | \$ 36,000,000  | 76003 |

The foregoing appropriation item C15060, Clean Ohio 76004  
 Conservation, shall be used in accordance with sections 164.20 to 76005  
 164.27 of the Revised Code. If the Public Works Commission 76006  
 receives refunds due to project overpayments that are discovered 76007  
 during the post-project audit, the Director of the Public Works 76008  
 Commission may certify to the Director of Budget and Management 76009  
 that refunds have been received. If the Director of Budget and 76010

Management determines that the project refunds are available to 76011  
support additional appropriations, such amounts are hereby 76012  
appropriated. 76013

**Section 301.12.** The items set forth in this section are 76014  
hereby appropriated out of any moneys in the state treasury to the 76015  
credit of the Clean Ohio Agricultural Easement Fund (Fund 7057) 76016  
that are not otherwise appropriated. 76017

Appropriations

|   |                                   |                    |
|---|-----------------------------------|--------------------|
| AGR DEPARTMENT OF AGRICULTURE               |                                   | 76018              |
| C70009                                      | Clean Ohio Agricultural Easements | \$ 6,000,000 76019 |
| Total Department of Agriculture             |                                   | \$ 6,000,000 76020 |
| TOTAL Clean Ohio Agricultural Easement Fund |                                   | \$ 6,000,000 76021 |

**Section 301.13.** (A) The Ohio Public Facilities Commission is 76023  
hereby authorized to issue and sell, in accordance with Section 2o 76024  
and 2q of Article VIII, Ohio Constitution, and pursuant to 76025  
sections 151.01 and 151.09 of the Revised Code, original 76026  
obligations of the state in an aggregate principal amount not to 76027  
exceed \$36,000,000 in addition to the original issuance of 76028  
obligations heretofore authorized by prior acts of the General 76029  
Assembly. These authorized obligations shall be issued and sold 76030  
from time to time, subject to applicable constitutional and 76031  
statutory limitations, as needed to ensure sufficient moneys to 76032  
the credit of the Clean Ohio Conservation Fund (Fund 7056) to pay 76033  
costs of conservation projects. 76034

(B) The Ohio Public Facilities Commission is hereby 76035  
authorized to issue and sell, in accordance with Section 2o and 2q 76036  
of Article VIII, Ohio Constitution, and pursuant to sections 76037  
151.01 and 151.09 of the Revised Code, original obligations of the 76038  
state in an aggregate principal amount not to exceed \$6,000,000 in 76039  
addition to the original issuance of obligations heretofore 76040  
authorized by prior acts of the General Assembly. These authorized 76041

obligations shall be issued and sold from time to time, subject to 76042  
applicable constitutional and statutory limitations, as needed to 76043  
ensure sufficient moneys to the credit of the Clean Ohio 76044  
Agricultural Easement Fund (Fund 7057) to pay costs of 76045  
conservation projects. 76046

**Section 301.14.** Notwithstanding section 126.14 of the Revised 76047  
Code, appropriations from the Clean Ohio Conservation Fund (Fund 76048  
7056) to the Public Works Commission shall be released upon 76049  
presentation of a request to release the funds, by the agency to 76050  
which the appropriation has been made, to the Director of Budget 76051  
and Management. 76052

**Section 301.15.** The capital improvements for which 76053  
appropriations are made in this act from the Clean Ohio 76054  
Conservation Fund (Fund 7056) and the Clean Ohio Agricultural 76055  
Easement Fund (Fund 7057) are determined to be capital 76056  
improvements and capital facilities for natural resources and 76057  
local subdivision capital improvement projects and are designated 76058  
as capital facilities to which proceeds of obligations issued 76059  
under Chapter 151. of the Revised Code are to be applied. 76060

**Section 503.10.** FISCAL YEAR 2012 GENERAL REVENUE FUND ENDING 76061  
BALANCE 76062

Notwithstanding divisions (B) and (C) of section 131.44 of 76063  
the Revised Code, the Director of Budget and Management shall 76064  
determine the surplus General Revenue Fund revenue that existed on 76065  
June 30, 2012, in excess of the amount required under division 76066  
(A)(3) of section 131.44 of the Revised Code, and transfer from 76067  
the General Revenue Fund, to the extent of the amount so 76068  
determined, to the Statewide Treatment and Prevention Fund (Fund 76069  
4750), a cash amount of \$1,000,000 and to the Long-Term Care 76070  
Ombudsman Program Fund (Fund 4C40), a cash amount of \$1,500,000. 76071

**Section 506.10.** OHP HEALTH CARE GRANTS FUND 76072

For fiscal year 2012 and fiscal year 2013, the Department of 76073  
Job and Family Services may deposit into the OHP Health Care 76074  
Grants Fund (Fund 3FA0) federal grants for the administration of 76075  
health care programs that the Department receives under the 76076  
"Patient Protection and Affordable Care Act," Public Law 111-148, 76077  
and the "Health Care and Education Reconciliation Act of 2010," 76078  
Public Law 111-152. The Department shall use the money in the fund 76079  
to pay for expenses incurred in carrying out duties the Department 76080  
assumes by accepting such federal grants, including expenses for 76081  
the administration of health care programs. 76082

**Section 512.10.** TRANSFER OF FUNDS FOR CASINO CONTROL 76083  
COMMISSION OPERATIONS 76084

During fiscal year 2013, the Director of Budget and 76085  
Management may, in consultation with the Executive Director of the 76086  
Casino Control Commission, transfer cash as necessary for 76087  
operating expenses and casino investigations. The transfer shall 76088  
be made from the General Revenue Fund to the Casino Control 76089  
Commission Operating Fund (Fund 5HS0). Once funds from upfront 76090  
license application fees and gross casino revenue taxes have been 76091  
accumulated to sustain operations, the Director of Budget and 76092  
Management, in consultation with the Executive Director of the 76093  
Casino Control Commission, shall establish a repayment schedule 76094  
for transfers to the General Revenue Fund from the Casino Control 76095  
Commission Operating Fund (Fund 5HS0). 76096

**Section 512.20.** PRE-SECURITIZATION TOBACCO PAYMENTS 76097

The Pre-Securitization Tobacco Payments Fund (Fund 5LS0) is 76098  
hereby created in the state treasury. All moneys received by the 76099  
state in connection with releases from disputed payment accounts 76100  
or amounts previously withheld under the Tobacco Master Settlement 76101

Agreement that do not constitute pledged receipts for the Buckeye Tobacco Settlement Financing Authority Tobacco Settlement Bonds, Series 2007, shall be credited to the fund and used by the Director of Budget and Management as authorized in this section.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall determine, in consultation with the Attorney General, the amounts needed to fund tobacco enforcement-related activities and may transfer cash in those amounts from Fund 5LS0 to the Tobacco Oversight Administration and Enforcement Fund (Fund U087). The Director of Budget and Management may transfer remaining cash determined to be in excess of the tobacco enforcement needs of the Attorney General from Fund 5LS0 to the General Revenue Fund.

Upon receipt of all pre-securitization Tobacco Master Settlement Agreement payments and the transfer of all cash credited to Fund 5LS0 as authorized in this section, Fund 5LS0 is abolished.

On July 1, 2012, or as soon as possible thereafter, and upon the request of the Attorney General, the Director of Budget and Management may transfer up to \$3,000,000 cash from the General Reimbursement Fund (Fund 1060) to the Tobacco Oversight Administration and Enforcement Fund (Fund U087).

**Section 512.30. CASH TRANSFER FROM TRAUMA AND EMERGENCY MEDICAL SERVICES GRANTS FUND**

On the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Trauma and Emergency Medical Services Grants Fund (Fund 83P0) to the Trauma and Emergency Medical Services Fund (Fund 83M0). The Director shall cancel any existing encumbrances against appropriation item 765637, EMS Grants, and reestablish them against appropriation item 765640, EMS - Grants.

The reestablished encumbrance amounts are hereby appropriated. 76133

**Section 512.40.** CASH TRANSFER FROM ELEMENTARY SCHOOL SEAT 76134  
BELT FUND 76135

On the effective date of this section, or as soon as possible 76136  
thereafter, the Director of Budget and Management shall transfer 76137  
the cash balance in the Elementary School Seat Belt Fund (Fund 76138  
83N0) to the Trauma and Emergency Medical Services Fund (Fund 76139  
83M0). The Director shall cancel any existing encumbrances against 76140  
appropriation item 761611, Elementary School Seat Belt Program, 76141  
and reestablish them against appropriation item 765624, Operating 76142  
Expense - Trauma and EMS. The reestablished encumbrance amounts 76143  
are hereby appropriated. 76144

**Section 512.50.** MEDICAID PROGRAM SUPPORT STATE FUND ABOLISHED 76145

The Director of Budget and Management shall transfer any 76146  
remaining cash balance in the Medicaid Program Support State Fund 76147  
(Fund 5C90) to the Health Care/Medicaid Support and Recoveries 76148  
Fund (Fund 5DL0) created under section 5111.941 of the Revised 76149  
Code. The Medicaid Program Support State Fund (Fund 5C90) shall 76150  
cease to exist once the transfer is complete. 76151

**Section 600.10.** That Section 753.20 of Am. Sub. H.B. 114 of 76152  
the 129th General Assembly be amended to read as follows: 76153

**Sec. 753.20.** (A) The Governor is authorized to execute a deed 76154  
in the name of the state conveying to Taylor Chevrolet, Inc. 76155  
(hereinafter the "grantee"), its successors and assigns, all of 76156  
the state's right, title, and interest in the following described 76157  
real estate known as Ohio State Highway Patrol Post 23, 1125 Ety 76158  
Road, in the City of Lancaster, County of Fairfield, State of 76159  
Ohio, and in the land on which the post is situated. 76160

Being a part of Section 27, Township 15, Range 19, Greenfield 76161  
Township, Fairfield County, Ohio and being more particularly 76162  
described as follows: 76163

Commencing at a point in the east line of Section 27 and in 76164  
the centerline of U.S. Route 33 at Station 139 plus 53.38, (1941 76165  
Survey) as shown by plans on file with the Department of Highways, 76166  
said point being N 1° 21' E, 452.70 feet from the southeast corner 76167  
of said Section 27; thence, along said Section line, N 1° 21 min. 76168  
E, 85.21 feet, to a point in the centerline of Township Road No. 76169  
201 and to an easement for electric power line of the Ohio Power 76170  
Company, Deed Record Volume 166, Page 375, Recorder's Office, 76171  
Fairfield County, Ohio, said point being the place of beginning of 76172  
the tract herein described; thence, along said Section line and 76173  
along the centerline of said Township Road, N 1° 21' E, 224.90 76174  
feet, to a point; thence, leaving said road, N 74° 38' 30" W, 76175  
226.61 feet, to a point; thence, S 28° 31' 30" W, 148.15 feet, to 76176  
a point in the northerly right of way line of said U.S. Route 33; 76177  
thence, along said northerly right of way line of said U.S. 33, S 76178  
62° 01' E, 122.04 feet to a point; thence, continuing along said 76179  
right of way line, S 61° 19' E, 94.12 feet, to a point; thence, 76180  
continuing along said right of way line, S 60° 52' E 107.24 feet, 76181  
to a point, the place of beginning containing 1.11 acres, more or 76182  
less. 76183

The above described tract of land is subject to an easement 76184  
for Highway purposes along Township Road No. 201. 76185

~~(B) In preparing the deed, the Auditor of State, with the~~ 76186  
~~assistance of the Attorney General, shall develop a legal~~ 76187  
~~description of the real estate in conformity with the actual~~ 76188  
~~bounds of the real estate.~~ 76189

~~(C) Consideration for conveyance of the real estate shall be~~ 76190  
~~agreed upon between the Superintendent of the State Highway Patrol~~ 76191  
~~and the grantee.~~ 76192

~~(D)~~(C) The deed may contain any condition or restriction that 76193  
the Governor determines is reasonably necessary to protect the 76194  
state's interests. 76195

~~(E)~~(D) The grantee shall pay all costs associated with the 76196  
purchase and conveyance of the real estate, including recordation 76197  
costs of the deed. 76198

~~(F)~~(E) Upon payment of the purchase price, the Auditor of 76199  
State, with the assistance of the Attorney General, shall prepare 76200  
a deed to the real estate. The deed shall state the consideration 76201  
and any conditions or restrictions and shall be executed by the 76202  
Governor in the name of the state, countersigned by the Secretary 76203  
of State, sealed with the Great Seal of the State, presented in 76204  
the Office of the Auditor of State for recording, and delivered to 76205  
the grantee. The grantee shall present the deed for recording in 76206  
the Office of the Fairfield County Recorder. 76207

~~(G)~~(F) The proceeds of the conveyance of the real estate 76208  
shall be deposited into the state treasury to the credit of the 76209  
State Highway Safety Fund. 76210

~~(H)~~(G) This section expires one year after its effective 76211  
date. 76212

**Section 600.11.** That existing Section 753.20 of Am. Sub. H.B. 76213  
114 of the 129th General Assembly is hereby repealed. 76214

**Section 601.10.** That Section 205.10 of Am. Sub. H.B. 114 of 76215  
the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 76216  
129th General Assembly, be amended to read as follows: 76217

**Sec. 205.10.** DPS DEPARTMENT OF PUBLIC SAFETY 76218

State Highway Safety Fund Group 76219

4W40 762321 Operating Expense - \$ 80,003,146 \$ ~~82,403,240~~ 76220

|      |        |                                   |    |             |    |                      |       |
|------|--------|-----------------------------------|----|-------------|----|----------------------|-------|
|      |        | BMV                               |    |             |    | <u>82,003,240</u>    |       |
| 4W40 | 762410 | Registrations                     | \$ | 28,945,176  | \$ | 29,813,532           | 76221 |
|      |        | Supplement                        |    |             |    |                      |       |
| 5V10 | 762682 | License Plate                     | \$ | 2,100,000   | \$ | 2,100,000            | 76222 |
|      |        | Contributions                     |    |             |    |                      |       |
| 7036 | 761321 | Operating Expense -               | \$ | 7,124,366   | \$ | <del>7,338,097</del> | 76223 |
|      |        | Information and                   |    |             |    | <u>6,988,097</u>     |       |
|      |        | Education                         |    |             |    |                      |       |
| 7036 | 761401 | Lease Rental Payments             | \$ | 9,978,300   | \$ | 2,315,700            | 76224 |
| 7036 | 764033 | Minor Capital Projects            | \$ | 1,250,000   | \$ | 1,250,000            | 76225 |
| 7036 | 764321 | Operating Expense -               | \$ | 260,744,934 | \$ | 258,365,903          | 76226 |
|      |        | Highway Patrol                    |    |             |    |                      |       |
| 7036 | 764605 | Motor Carrier                     | \$ | 2,860,000   | \$ | 2,860,000            | 76227 |
|      |        | Enforcement Expenses              |    |             |    |                      |       |
| 8300 | 761603 | Salvage and Exchange -            | \$ | 19,469      | \$ | 20,053               | 76228 |
|      |        | Administration                    |    |             |    |                      |       |
| 8310 | 761610 | Information and                   | \$ | 422,084     | \$ | <del>434,746</del>   | 76229 |
|      |        | Education - Federal               |    |             |    | <u>409,746</u>       |       |
| 8310 | 764610 | Patrol - Federal                  | \$ | 2,209,936   | \$ | 2,276,234            | 76230 |
| 8310 | 764659 | Transportation                    | \$ | 5,519,333   | \$ | 5,684,913            | 76231 |
|      |        | Enforcement - Federal             |    |             |    |                      |       |
| 8310 | 765610 | EMS - Federal                     | \$ | 532,007     | \$ | 532,007              | 76232 |
| 8310 | 769610 | <del>Food Stamp Trafficking</del> | \$ | 1,546,319   | \$ | 1,546,319            | 76233 |
|      |        | <del>Enforcement - Federal</del>  |    |             |    |                      |       |
|      |        | <u>Investigative Unit</u>         |    |             |    |                      |       |
|      |        | <u>Federal Reimbursement</u>      |    |             |    |                      |       |
| 8310 | 769631 | Homeland Security -               | \$ | 2,184,000   | \$ | 2,184,000            | 76234 |
|      |        | Federal                           |    |             |    |                      |       |
| 8320 | 761612 | Traffic Safety -                  | \$ | 16,577,565  | \$ | 16,577,565           | 76235 |
|      |        | Federal                           |    |             |    |                      |       |
| 8350 | 762616 | Financial                         | \$ | 5,457,240   | \$ | <del>5,549,068</del> | 76236 |
|      |        | Responsibility                    |    |             |    | <u>5,274,068</u>     |       |
|      |        | Compliance                        |    |             |    |                      |       |

|             |               |  |           |            |           |  |       |
|-------------|---------------|--|-----------|------------|-----------|--|-------|
| 8370        | 764602        | Turnpike Policing                        | \$        | 11,553,959 | \$        | 11,553,959                               | 76237 |
| 8380        | 764606        | Patrol Reimbursement                     | \$        | 50,000     | \$        | 50,000                                   | 76238 |
| 83C0        | 764630        | Contraband,<br>Forfeiture, Other         | \$        | 622,894    | \$        | 622,894                                  | 76239 |
| 83F0        | 764657        | Law Enforcement<br>Automated Data System | \$        | 9,053,266  | \$        | 9,053,266                                | 76240 |
| 83G0        | 764633        | OMVI<br>Enforcement/Education            | \$        | 623,230    | \$        | 641,927                                  | 76241 |
| 83J0        | 764693        | Highway Patrol Justice<br>Contraband     | \$        | 2,100,000  | \$        | 2,100,000                                | 76242 |
| 83M0        | 765624        | Operating Expense -<br>Trauma and EMS    | \$        | 2,632,106  | \$        | <del>2,711,069</del><br><u>3,204,925</u> | 76243 |
| <u>83M0</u> | <u>765640</u> | <u>EMS - Grants</u>                      | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>4,229,819</u>                         | 76244 |
| 83N0        | 761611        | Elementary School Seat<br>Belt Program   | \$        | 305,600    | \$        | <del>305,600</del> <u>0</u>              | 76245 |
| 83P0        | 765637        | EMS Grants                               | \$        | 4,106,621  | \$        | <del>4,229,819</del> <u>0</u>            | 76246 |
| 83R0        | 762639        | Local Immobilization<br>Reimbursement    | \$        | 450,000    | \$        | 450,000                                  | 76247 |
| 83T0        | 764694        | Highway Patrol<br>Treasury Contraband    | \$        | 21,000     | \$        | 21,000                                   | 76248 |
| 8400        | 764607        | State Fair Security                      | \$        | 1,256,655  | \$        | 1,294,354                                | 76249 |
| 8400        | 764617        | Security and<br>Investigations           | \$        | 6,432,686  | \$        | 6,432,686                                | 76250 |
| 8400        | 764626        | State Fairgrounds<br>Police Force        | \$        | 849,883    | \$        | 849,883                                  | 76251 |
| 8400        | 769632        | Homeland Security -<br>Operating         | \$        | 737,791    | \$        | 737,791                                  | 76252 |
| 8410        | 764603        | Salvage and Exchange -<br>Highway Patrol | \$        | 1,339,399  | \$        | 1,339,399                                | 76253 |
| 8460        | 761625        | Motorcycle Safety<br>Education           | \$        | 3,185,013  | \$        | 3,280,563                                | 76254 |
| 8490        | 762627        | Automated Title<br>Processing Board      | \$        | 17,316,755 | \$        | 14,335,513                               | 76255 |

|   |    |             |    |                        |       |
|---|----|-------------|----|------------------------|-------|
| TOTAL HSF State Highway Safety Fund Group                       | \$ | 490,110,733 | \$ | <del>481,261,100</del> | 76256 |
|   |    |             |    | <u>480,399,356</u>     |       |
| General Services Fund Group                                     |    |             |    |                        | 76257 |
| 4P60 768601 Justice Program Services                            | \$ | 998,104     | \$ | 1,028,047              | 76258 |
| 4S30 766661 Hilltop Utility Reimbursement                       | \$ | 540,800     | \$ | 540,800                | 76259 |
| 5ET0 768625 Drug Law Enforcement                                | \$ | 3,780,000   | \$ | 3,893,400              | 76260 |
| 5Y10 764695 Highway Patrol Continuing Professional Training     | \$ | 170,000     | \$ | 170,000                | 76261 |
| 5Y10 767696 Investigative Unit Continuing Professional Training | \$ | 15,000      | \$ | 15,000                 | 76262 |
| TOTAL GSF General Services Fund Group                           | \$ | 5,503,904   | \$ | 5,647,247              | 76263 |
| Federal Special Revenue Fund Group                              |    |             |    |                        | 76264 |
| 3290 763645 Federal Mitigation Program                          | \$ | 10,110,332  | \$ | 10,413,642             | 76265 |
| 3370 763609 Federal Disaster Relief                             | \$ | 27,707,636  | \$ | 27,707,636             | 76266 |
| 3390 763647 Emergency Management Assistance and Training        | \$ | 75,664,821  | \$ | 77,934,765             | 76267 |
| 3CB0 768691 Federal Justice Grants - FFY06                      | \$ | 200,000     | \$ | 50,000                 | 76268 |
| 3CC0 768609 Justice Assistance Grants - FFY07                   | \$ | 583,222     | \$ | 310,000                | 76269 |
| 3CD0 768610 Justice Assistance Grants - FFY08                   | \$ | 310,000     | \$ | 150,000                | 76270 |
| 3CE0 768611 Justice Assistance Grants - FFY09                   | \$ | 865,000     | \$ | 1,200,000              | 76271 |

|           |                                       |   |    |             |    |  |       |
|-----------|---------------------------------------|---|----|-------------|----|--|-------|
| 3CV0      | 768697                                | Justice Assistance<br>Grants Supplement -<br>FFY08  | \$ | 2,000       | \$ | 0  | 76272 |
| 3DE0      | 768612                                | Federal Stimulus -<br>Justice Assistance<br>Grants  | \$ | 1,015,000   | \$ | 1,015,000                                    | 76273 |
| 3DH0      | 768613                                | Federal Stimulus -<br>Justice Programs  | \$ | 150,000     | \$ | 150,000                                      | 76274 |
| 3DU0      | 762628                                | BMV Grants  | \$ | 1,525,000   | \$ | <del>1,580,000</del><br><u>1,480,000</u>     | 76275 |
| 3EU0      | 768614                                | Justice Assistance<br>Grants - FFY10  | \$ | 650,000     | \$ | 920,000                                      | 76276 |
| 3L50      | 768604                                | Justice Program   | \$ | 11,400,000  | \$ | 11,400,000                                   | 76277 |
| 3N50      | 763644                                | U.S. Department of<br>Energy Agreement  | \$ | 31,672      | \$ | 31,672                                       | 76278 |
| TOTAL FED | Federal Special Revenue<br>Fund Group |   | \$ | 130,214,683 | \$ | <del>132,862,715</del><br><u>132,762,715</u> | 76279 |
|           | State Special Revenue Fund Group      |   |    |             |    |  | 76280 |
| 4V30      | 763662                                | EMA Service and<br>Reimbursement  | \$ | 4,368,369   | \$ | 4,499,420                                    | 76281 |
| 5390      | 762614                                | Motor Vehicle Dealers<br>Board  | \$ | 180,000     | \$ | 185,400                                      | 76282 |
| 5B90      | 766632                                | Private Investigator<br>and Security Guard<br>Provider  | \$ | 1,562,637   | \$ | 1,562,637                                    | 76283 |
| 5BK0      | 768687                                | Criminal Justice<br>Services - Operating  | \$ | 400,000     | \$ | 400,000                                      | 76284 |
| 5BK0      | 768689                                | Family Violence<br>Shelter Programs   | \$ | 750,000     | \$ | 750,000                                      | 76285 |
| 5CM0      | 767691                                | <del>Federal Investigative</del><br><u>Seizure Investigative</u><br><u>Unit Federal</u><br><u>Equitable Sharing -</u> | \$ | 300,000     | \$ | 300,000                                      | 76286 |

|                 |                           | <u>Treasury</u>                                 |           |                       |           |                       |       |
|-----------------|---------------------------|---|-----------|-----------------------|-----------|-----------------------|-------|
| 5DS0            | 769630                    | Homeland Security                               | \$        | 1,414,384             | \$        | 1,414,384             | 76287 |
| 5FF0            | 762621                    | Indigent Interlock<br>and Alcohol<br>Monitoring | \$        | 2,000,000             | \$        | 2,000,000             | 76288 |
| 5FL0            | 769634                    | Investigations                                  | \$        | 899,300               | \$        | 899,300               | 76289 |
| <u>5LM0</u>     | <u>768698</u>             | <u>Criminal Justice</u>                         | <u>\$</u> | <u>33,991</u>         | <u>\$</u> | <u>816,955</u>        | 76290 |
|                 |                           | <u>Services Law</u>                             |           |                       |           |                       |       |
|                 |                           | <u>Enforcement Support</u>                      |           |                       |           |                       |       |
| 6220            | 767615                    | Investigative<br>Contraband and<br>Forfeiture   | \$        | 375,000               | \$        | 375,000               | 76291 |
| 6570            | 763652                    | Utility Radiological<br>Safety                  | \$        | 1,415,945             | \$        | 1,415,945             | 76292 |
| 6810            | 763653                    | SARA Title III HAZMAT<br>Planning               | \$        | 262,438               | \$        | 262,438               | 76293 |
| 8500            | 767628                    | Investigative Unit<br>Salvage                   | \$        | 90,000                | \$        | 92,700                | 76294 |
| TOTAL SSR       | State Special Revenue     |   | \$        | <del>14,018,073</del> | \$        | <del>14,157,224</del> | 76295 |
| Fund Group      |                           |   |           | <u>14,052,064</u>     |           | <u>14,974,179</u>     |       |
| Liquor Control  | Fund Group                |   |           |                       |           |                       | 76296 |
| 7043            | 767321                    | Liquor Enforcement -<br>Operating               | \$        | 11,000,000            | \$        | 11,000,000            | 76297 |
| TOTAL LCF       | Liquor Control Fund Group |   | \$        | 11,000,000            | \$        | 11,000,000            | 76298 |
| Agency          | Fund Group                |   |           |                       |           |                       | 76299 |
| 5J90            | 761678                    | Federal Salvage/GSA                             | \$        | 1,500,000             | \$        | 1,500,000             | 76300 |
| TOTAL AGY       | Agency Fund Group         |   | \$        | 1,500,000             | \$        | 1,500,000             | 76301 |
| Holding Account | Redistribution Fund Group |   |           |                       |           |                       | 76302 |
| R024            | 762619                    | Unidentified Motor<br>Vehicle Receipts          | \$        | 1,885,000             | \$        | 1,885,000             | 76303 |
| R052            | 762623                    | Security Deposits                               | \$        | 350,000               | \$        | 350,000               | 76304 |
| TOTAL 090       | Holding Account           |   | \$        | 2,235,000             | \$        | 2,235,000             | 76305 |

Redistribution Fund Group

|                              |    |                        |    |                        |       |
|------------------------------|----|------------------------|----|------------------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ | <del>654,582,393</del> | \$ | <del>648,663,286</del> | 76306 |
|                              |    | <u>654,616,384</u>     |    | <u>648,518,497</u>     |       |

MOTOR VEHICLE REGISTRATION 76307

The Registrar of Motor Vehicles may deposit revenues to meet 76308  
the cash needs of the State Bureau of Motor Vehicles Fund (Fund 76309  
4W40) established in section 4501.25 of the Revised Code, obtained 76310  
under sections 4503.02 and 4504.02 of the Revised Code, less all 76311  
other available cash. Revenue deposited pursuant to this paragraph 76312  
shall support, in part, appropriations for operating expenses and 76313  
defray the cost of manufacturing and distributing license plates 76314  
and license plate stickers and enforcing the law relative to the 76315  
operation and registration of motor vehicles. Notwithstanding 76316  
section 4501.03 of the Revised Code, the revenues shall be paid 76317  
into Fund 4W40 before any revenues obtained pursuant to sections 76318  
4503.02 and 4504.02 of the Revised Code are paid into any other 76319  
fund. The deposit of revenues to meet the aforementioned cash 76320  
needs shall be in approximately equal amounts on a monthly basis 76321  
or as otherwise determined by the Director of Budget and 76322  
Management pursuant to a plan submitted by the Registrar of Motor 76323  
Vehicles. 76324

CAPITAL PROJECTS 76325

The Registrar of Motor Vehicles may transfer cash from the 76326  
State Bureau of Motor Vehicles Fund (Fund 4W40) to the State 76327  
Highway Safety Fund (Fund 7036) to meet its obligations for 76328  
capital projects CIR-047, Department of Public Safety Office 76329  
Building and CIR-049, Warehouse Facility. 76330

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS 76331

The foregoing appropriation item 761401, Lease Rental 76332  
Payments, shall be used for payments to the Ohio Building 76333  
Authority for the period July 1, 2011, to June 30, 2013, under the 76334

primary leases and agreements for public safety related buildings 76335  
financed by obligations issued under Chapter 152. of the Revised 76336  
Code. Notwithstanding section 152.24 of the Revised Code, the Ohio 76337  
Building Authority may, with approval of the Director of Budget 76338  
and Management, lease capital facilities to the Department of 76339  
Public Safety. 76340

HILLTOP TRANSFER 76341

The Director of Public Safety shall determine, per an 76342  
agreement with the Director of Transportation, the share of each 76343  
debt service payment made out of appropriation item 761401, Lease 76344  
Rental Payments, that relates to the Department of 76345  
Transportation's portion of the Hilltop Building Project, and 76346  
shall certify to the Director of Budget and Management the amounts 76347  
of this share. The Director of Budget and Management shall 76348  
transfer the amounts of such shares from the Highway Operating 76349  
Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036). 76350

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND 76351

On July 1, 2011, or as soon as possible thereafter, the 76352  
Director of Budget and Management shall transfer the unexpended 76353  
and unencumbered cash balance in the Seat Belt Education Fund 76354  
(Fund 8440) to the Trauma and Emergency Medical Services Fund 76355  
(Fund 83M0). Upon completion of the transfer, Fund 8440 is 76356  
abolished. The Director shall cancel any existing encumbrances 76357  
against appropriation item 761613, Seat Belt Education Program, 76358  
and reestablish them against appropriation item 765624, Operating 76359  
Expense - Trauma and EMS. The reestablished encumbrance amounts 76360  
are hereby appropriated. 76361

CASH TRANSFERS BETWEEN FUNDS 76362

Notwithstanding any provision of law to the contrary, the 76363  
Director of Budget and Management, upon the written request of the 76364  
Director of Public Safety, may approve the transfer of cash 76365

between the following six funds: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), the Investigations Fund (Fund 5FL0), the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30), the Justice Program Services Fund (Fund 4P60), and the State Bureau of Motor Vehicles Fund (Fund 4W40).

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, upon the written request of the Director of Public Safety, may approve the transfer of cash from the Continuing Professional Training Fund (Fund 5Y10), the State Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), the Trauma and Emergency Medical Services Fund (Fund 83M0), and the Highway Safety Salvage and Exchange Highway Patrol Fund (Fund 8410) to the Security, Investigations, and Policing Fund (Fund 8400).

CASH TRANSFERS OF SEAT BELT FINE REVENUES

Notwithstanding any provision of law to the contrary, the Controlling Board, upon request of the Director of Public Safety, may approve the transfer of cash between the following ~~four~~ three funds that receive fine revenues from enforcement of the mandatory seat belt law: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Elementary School Program Fund (Fund 83N0), and the Trauma and Emergency Medical Services Grants Fund (Fund 83P0).

STATE DISASTER RELIEF

The State Disaster Relief Fund (Fund 5330) may accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency disaster response costs and disaster program management costs, and may also be used for the following purposes:

(A) To accept transfers of cash and appropriations from

|  |       |
|--|-------|
| Controlling Board appropriation items for Ohio Emergency           | 76397 |
| Management Agency public assistance and mitigation program match   | 76398 |
| costs to reimburse eligible local governments and private          | 76399 |
| nonprofit organizations for costs related to disasters;            | 76400 |
| (B) To accept and transfer cash to reimburse the costs             | 76401 |
| associated with Emergency Management Assistance Compact (EMAC)     | 76402 |
| deployments;   | 76403 |
| (C) To accept disaster related reimbursement from federal,         | 76404 |
| state, and local governments. The Director of Budget and           | 76405 |
| Management may transfer cash from reimbursements received by this  | 76406 |
| fund to other funds of the state from which transfers were         | 76407 |
| originally approved by the Controlling Board.                      | 76408 |
| (D) To accept transfers of cash and appropriations from            | 76409 |
| Controlling Board appropriation items to fund the State Disaster   | 76410 |
| Relief Program, for disasters that have been declared by the       | 76411 |
| Governor, and the State Individual Assistance Program for          | 76412 |
| disasters that have been declared by the Governor and the federal  | 76413 |
| Small Business Administration. The Ohio Emergency Management       | 76414 |
| Agency shall publish and make available application packets        | 76415 |
| outlining procedures for the State Disaster Relief Program and the | 76416 |
| State Individual Assistance Program.                               | 76417 |
| JUSTICE ASSISTANCE GRANT FUND                                      | 76418 |
| The federal payments made to the state for the Byrne Justice       | 76419 |
| Assistance Grants Program under Title II of Division A of the      | 76420 |
| American Recovery and Reinvestment Act of 2009 shall be deposited  | 76421 |
| to the credit of the Justice Assistance Grant Fund (Fund 3DE0),    | 76422 |
| which is hereby created in the state treasury. All investment      | 76423 |
| earnings of the fund shall be credited to the fund.                | 76424 |
| FEDERAL STIMULUS - JUSTICE PROGRAMS                                | 76425 |
| The federal payments made to the state for the Violence            | 76426 |
| Against Women Formula Grant under Title II of Division A of the    | 76427 |

American Recovery and Reinvestment Act of 2009 shall be deposited 76428  
to the credit of the Federal Stimulus - Justice Programs Fund 76429  
(Fund 3DH0). 76430

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 76431  
AGENCY SERVICE AND REIMBURSEMENT FUND 76432

On July 1 of each fiscal year, or as soon as possible 76433  
thereafter, the Director of Budget and Management shall transfer 76434  
\$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to 76435  
the Emergency Management Agency Service and Reimbursement Fund 76436  
(Fund 4V30) to be distributed to the Ohio Task Force One - Urban 76437  
Search and Rescue Unit and other urban search and rescue programs 76438  
around the state. 76439

FAMILY VIOLENCE PREVENTION FUND 76440

Notwithstanding any provision of law to the contrary, in each 76441  
of fiscal years 2012 and 2013, the first \$750,000 received to the 76442  
credit of the Family Violence Prevention Fund (Fund 5BK0) shall be 76443  
appropriated to appropriation item 768689, Family Violence Shelter 76444  
Programs, and the next \$400,000 received to the credit of Fund 76445  
5BK0 in each of those fiscal years shall be appropriated to 76446  
appropriation item 768687, Criminal Justice Services - Operating. 76447  
Any moneys received to the credit of Fund 5BK0 in excess of the 76448  
aforementioned appropriated amounts in each fiscal year shall, 76449  
upon the approval of the Controlling Board, be used to provide 76450  
grants to family violence shelters in Ohio. 76451

SARA TITLE III HAZMAT PLANNING 76452

The SARA Title III HAZMAT Planning Fund (Fund 6810) is 76453  
entitled to receive grant funds from the Emergency Response 76454  
Commission to implement the Emergency Management Agency's 76455  
responsibilities under Chapter 3750. of the Revised Code. 76456

COLLECTIVE BARGAINING INCREASES 76457

Notwithstanding division (D) of section 127.14 and division 76458  
(B) of section 131.35 of the Revised Code, except for the General 76459  
Revenue Fund, the Controlling Board may, upon the request of 76460  
either the Director of Budget and Management, or the Department of 76461  
Public Safety with the approval of the Director of Budget and 76462  
Management, increase appropriations for any fund, as necessary for 76463  
the Department of Public Safety, to assist in paying the costs of 76464  
increases in employee compensation that have occurred pursuant to 76465  
collective bargaining agreements under Chapter 4117. of the 76466  
Revised Code and, for exempt employees, under section 124.152 of 76467  
the Revised Code. 76468

CASH BALANCE FUND REVIEW 76469

Not later than the first day of April in each fiscal year of 76470  
the biennium, the Director of Budget and Management shall review 76471  
the cash balances for each fund, except the State Highway Safety 76472  
Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 76473  
4W40), in the State Highway Safety Fund Group, and shall recommend 76474  
to the Controlling Board an amount to be transferred to the credit 76475  
of Fund 7036 or Fund 4W40, as appropriate. 76476

**Section 601.11.** That existing Section 205.10 of Am. Sub. H.B. 76477  
114 of the 129th General Assembly, as amended by Am. Sub. H.B. 153 76478  
of the 129th General Assembly, is hereby repealed. 76479

**Section 601.20.** That Section 201 of Sub. H.B. 123 of the 76480  
129th General Assembly be amended to read as follows: 76481

**Sec. 201.** All items in Sections 201 and 203 of this act are 76482  
hereby appropriated out of any moneys in the state treasury to the 76483  
credit of the designated fund. For all appropriations made in this 76484  
act, those in the first column are for fiscal year 2012, and those 76485  
in the second column are for fiscal year 2013. 76486

| FND AI      | AI TITLE   | Appropriations |                        |       |
|-------------|--|----------------|------------------------|-------|
|             |  |                |                        | 76487 |
|             | BWC BUREAU OF WORKERS' COMPENSATION                          |                |                        | 76488 |
|             | Workers' Compensation Fund Group                             |                |                        | 76489 |
| 7023 855401 | William Green Lease  | \$ 18,291,365  | \$ 17,533,370          | 76490 |
|             | Payments to OBA  |                |                        |       |
| 7023 855407 | Claims, Risk and   | \$ 125,427,732 | <del>124,192,959</del> | 76491 |
|             | Medical Management   |                | <u>122,492,959</u>     |       |
| 7023 855408 | Fraud Prevention   | \$ 11,331,154  | \$ 11,164,226          | 76492 |
| 7023 855409 | Administrative   | \$ 101,724,950 | <del>104,136,037</del> | 76493 |
|             | Services   |                | <u>103,346,037</u>     |       |
| 7023 855410 | Attorney General   | \$ 4,621,850   | \$ 4,621,850           | 76494 |
|             | Payments   |                |                        |       |
| 8220 855606 | Coal Workers' Fund   | \$ 150,586     | \$ 147,666             | 76495 |
| 8230 855608 | Marine Industry  | \$ 76,532      | \$ 75,527              | 76496 |
| 8250 855605 | Disabled Workers   | \$ 322,266     | \$ 319,718             | 76497 |
|             | Relief Fund  |                |                        |       |
| 8260 855609 | Safety and Hygiene   | \$ 20,382,567  | \$ 20,161,132          | 76498 |
|             | Operating  |                |                        |       |
| 8260 855610 | Gear Program   | \$ 4,000,000   | \$ 4,000,000           | 76499 |
| 8290 855604 | Long Term Care Loan  | \$ 1,000,000   | <del>1,000,000</del>   | 76500 |
|             | Program  |                | <u>100,000</u>         |       |
|             | TOTAL WCF Workers' Compensation                              |                |                        | 76501 |
|             | Fund Group   | \$ 287,329,002 | <del>287,352,485</del> | 76502 |
|             |  |                | <u>283,962,485</u>     |       |
|             | Federal Special Revenue Fund Group                           |                |                        | 76503 |
| 3490 855601 | OSHA Enforcement   | \$ 1,670,998   | \$ 1,647,515           | 76504 |
|             | TOTAL FED Federal Special Revenue                            | \$ 1,670,998   | \$ 1,647,515           | 76505 |
|             | Fund Group   |                |                        |       |
|             | TOTAL ALL BUDGET FUND GROUPS                                 | \$ 289,000,000 | <del>289,000,000</del> | 76506 |
|             |  |                | <u>285,610,000</u>     |       |
|             | WILLIAM GREEN LEASE PAYMENTS                                 |                |                        | 76507 |
|             | The foregoing appropriation item 855401, William Green Lease |                |                        | 76508 |

Payments to OBA, shall be used for lease payments to the Ohio Building Authority, and these appropriations shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, to June 30, 2013, by the Bureau of Workers' Compensation to the Ohio Building Authority pursuant to leases and agreements made under Chapter 152. of the Revised Code and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. Of the amounts received in Fund 7023, appropriation item 855401, William Green Lease Payments to OBA, up to \$35,824,735 shall be restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 7023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 7023) by intrastate transfer voucher.

**WORKERS' COMPENSATION FRAUD UNIT**

The Workers' Compensation Section Fund (Fund 1950) administered by the Attorney General shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in fiscal year 2012 and \$828,200 in fiscal year 2013 shall be used to provide these payments.

**SAFETY AND HYGIENE**

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall transfer \$20,382,567 cash in fiscal year 2012 and \$20,161,132 cash in fiscal year 2013 from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).

OSHA ON-SITE CONSULTATION PROGRAM 76540

The Bureau of Workers' Compensation may designate a portion 76541  
of appropriation item 855609, Safety and Hygiene Operating, to be 76542  
used to match federal funding for the federal Occupational Safety 76543  
and Health Administration's (OSHA) on-site consultation program. 76544

VOCATIONAL REHABILITATION 76545

The Bureau of Workers' Compensation and the Rehabilitation 76546  
Services Commission shall enter into an interagency agreement for 76547  
the provision of vocational rehabilitation services and staff to 76548  
mutually eligible clients. The bureau shall provide \$605,407 in 76549  
fiscal year 2012 and \$605,407 in fiscal year 2013 from the State 76550  
Insurance Fund to fund vocational rehabilitation services and 76551  
staff in accordance with the interagency agreement. 76552

FUND BALANCE 76553

Any unencumbered cash balance in excess of \$45,000,000 in the 76554  
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 76555  
June of each fiscal year shall be used to reduce the 76556  
administrative cost rate charged to employers to cover 76557  
appropriations for Bureau of Workers' Compensation operations. 76558

**Section 601.21.** That existing Section 201 of Sub. H.B. 123 of 76559  
the 129th General Assembly is hereby repealed. 76560

**Section 601.30.** That Section 1 of H.B. 124 of the 129th 76561  
General Assembly be amended to read as follows: 76562

**Sec. 1.** All items in this section are hereby appropriated out 76563  
of any moneys in the state treasury to the credit of the 76564  
designated fund. For all appropriations made in this section, 76565  
those in the first column are for fiscal year 2012, and those in 76566  
the second column are for fiscal year 2013. 76567

|   |                                  | Appropriations |   |       |
|---|----------------------------------|----------------|---|-------|
| FND AI  | AI TITLE                         | FY 2012        | FY 2013                                       |       |
|   | OIC INDUSTRIAL COMMISSION        |                |   | 76568 |
|   | Workers' Compensation Fund Group |                |   | 76571 |
| 5W30 845321                                   | Operating Expenses               | \$ 50,100,000  | \$ <del>48,900,000</del><br><u>47,732,000</u> | 76572 |
| 5W30 845402                                   | Rent - William Green<br>Building | \$ 5,500,000   | \$ 5,500,000                                  | 76573 |
| 5W30 845410                                   | Attorney General<br>Payments     | \$ 3,900,000   | \$ 4,000,000                                  | 76574 |
| TOTAL WCF Workers' Compensation<br>Fund Group |                                  |                |   | 76575 |
|   |                                  | \$ 59,500,000  | \$ <del>58,400,000</del><br><u>57,232,000</u> | 76576 |
| TOTAL ALL BUDGET FUND GROUPS                  |                                  |                |   | 76577 |
|   |                                  | \$ 59,500,000  | \$ <del>58,400,000</del><br><u>57,232,000</u> |       |

RENT - WILLIAM GREEN BUILDING 76578

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. 76579  
76580  
76581  
76582

**Section 601.31.** That existing Section 1 of H.B. 124 of the 129th General Assembly is hereby repealed. 76583  
76584

**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, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 267.30.20, 267.30.40, 279.10, 283.10, 287.10, 291.10, 307.10, 309.10, 76585  
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309.30.10, 309.30.30, 309.30.33, 309.30.53, 309.30.73, 313.10, 76593  
 315.10, 323.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 76594  
 367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65, 76595  
 371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 76596  
 503.50, and 521.70 of Am. Sub. H.B. 153 of the 129th General 76597  
 Assembly be amended to read as follows: 76598

**Sec. 205.10. ADJ ADJUTANT GENERAL** 76599

General Revenue Fund 76600

|           |        |                       |    |           |    |                      |       |
|-----------|--------|-----------------------|----|-----------|----|----------------------|-------|
| GRF       | 745401 | Ohio Military Reserve | \$ | 12,308    | \$ | 12,308               | 76601 |
| GRF       | 745404 | Air National Guard    | \$ | 1,810,606 | \$ | 1,810,606            | 76602 |
| GRF       | 745407 | National Guard        | \$ | 400,000   | \$ | 400,000              | 76603 |
|           |        | Benefits              |    |           |    |                      |       |
| GRF       | 745409 | Central               | \$ | 2,692,098 | \$ | <del>2,692,098</del> | 76604 |
|           |        | Administration        |    |           |    | <u>2,682,098</u>     |       |
| GRF       | 745499 | Army National Guard   | \$ | 3,687,888 | \$ | 3,689,871            | 76605 |
| TOTAL GRF |        | General Revenue Fund  | \$ | 8,602,900 | \$ | <del>8,604,883</del> | 76606 |
|           |        |                       |    |           |    | <u>8,594,883</u>     |       |

General Services Fund Group 76607

|           |        |                       |    |           |    |           |       |
|-----------|--------|-----------------------|----|-----------|----|-----------|-------|
| 5340      | 745612 | Property Operations   | \$ | 534,304   | \$ | 534,304   | 76608 |
|           |        | Management            |    |           |    |           |       |
| 5360      | 745605 | Marksmanship          | \$ | 128,600   | \$ | 128,600   | 76609 |
|           |        | Activities            |    |           |    |           |       |
| 5360      | 745620 | Camp Perry and        | \$ | 1,178,311 | \$ | 978,846   | 76610 |
|           |        | Buckeye Inn           |    |           |    |           |       |
|           |        | Operations            |    |           |    |           |       |
| 5370      | 745604 | Ohio National Guard   | \$ | 62,000    | \$ | 62,000    | 76611 |
|           |        | Facilities            |    |           |    |           |       |
|           |        | Maintenance           |    |           |    |           |       |
| TOTAL GSF |        | General Services Fund | \$ | 1,903,215 | \$ | 1,703,750 | 76612 |
|           |        | Group                 |    |           |    |           |       |

|                                    |                         |    |            |    |                       |       |
|------------------------------------|-------------------------|----|------------|----|-----------------------|-------|
| Federal Special Revenue Fund Group |                         |    |            |    | 76613                 |       |
| 3410 745615                        | Air National Guard      | \$ | 2,977,692  | \$ | 2,977,692             | 76614 |
|                                    | Base Security           |    |            |    |                       |       |
| 3420 745616                        | Army National Guard     | \$ | 10,970,050 | \$ | 10,970,050            | 76615 |
|                                    | Service Agreement       |    |            |    |                       |       |
| 3E80 745628                        | Air National Guard      | \$ | 16,958,595 | \$ | 16,958,595            | 76616 |
|                                    | Operations and          |    |            |    |                       |       |
|                                    | Maintenance             |    |            |    |                       |       |
| 3R80 745603                        | Counter Drug            | \$ | 25,000     | \$ | 25,000                | 76617 |
|                                    | Operations              |    |            |    |                       |       |
| TOTAL FED                          | Federal Special Revenue | \$ | 30,931,337 | \$ | 30,931,337            | 76618 |
| Fund Group                         |                         |    |            |    |                       |       |
| State Special Revenue Fund Group   |                         |    |            |    |                       | 76619 |
| 5U80 745613                        | Community Match         | \$ | 250,000    | \$ | 250,000               | 76620 |
|                                    | Armories                |    |            |    |                       |       |
| TOTAL SSR                          | State Special Revenue   | \$ | 250,000    | \$ | 250,000               | 76621 |
| Fund Group                         |                         |    |            |    |                       |       |
| TOTAL ALL BUDGET FUND GROUPS       |                         | \$ | 41,687,452 | \$ | <del>41,489,970</del> | 76622 |
|                                    |                         |    |            |    | <u>41,479,970</u>     |       |

NATIONAL GUARD BENEFITS 76623

The foregoing appropriation item 745407, National Guard 76624  
Benefits, shall be used for purposes of sections 5919.31 and 76625  
5919.33 of the Revised Code, and for administrative costs of the 76626  
associated programs. 76627

For active duty members of the Ohio National Guard who died 76628  
after October 7, 2001, while performing active duty, the death 76629  
benefit, pursuant to section 5919.33 of the Revised Code, shall be 76630  
paid to the beneficiary or beneficiaries designated on the 76631  
member's Servicemembers' Group Life Insurance Policy. 76632

STATE ACTIVE DUTY COSTS 76633

Of the foregoing appropriation item 745409, Central 76634

Administration, \$50,000 in each fiscal year shall be used for the 76635  
purpose of paying expenses related to state active duty of members 76636  
of the Ohio organized militia, in accordance with a proclamation 76637  
of the Governor. Expenses include, but are not limited to, the 76638  
cost of equipment, supplies, and services, as determined by the 76639  
Adjutant General's Department. 76640

**Sec. 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES** 76641

General Revenue Fund 76642

GRF 100403 Public Employees \$ 400,000 \$ ~~400,000~~ 76643

Health Care Program 344,000

GRF 100415 OAKS Rental Payments \$ 23,024,500 \$ 23,006,300 76644

GRF 100416 STARS Lease Rental \$ 4,970,700 \$ 4,971,300 76645

Payments

GRF 100418 Web Sites and Business \$ 2,895,063 \$ ~~2,795,176~~ 0 76646

Gateway

GRF 100419 IT Security \$ 742,535 \$ ~~742,648~~ 0 76647

Infrastructure

GRF 100439 Equal Opportunity \$ 625,000 \$ ~~625,000~~ 0 76648

Certification Programs

GRF 100447 OBA - Building Rent \$ 53,260,000 \$ 83,504,200 76649

Payments

GRF 100448 OBA - Building \$ 21,000,000 \$ ~~21,000,000~~ 76650

Operating Payments 20,000,000

GRF 100449 DAS - Building \$ 7,551,245 \$ 7,551,571 76651

Operating Payments

GRF 100451 Minority Affairs \$ 24,016 \$ ~~24,016~~ 0 76652

GRF 100452 Efficiency & Results \$ 0 \$ 650,000 76653

Program

GRF 100456 State IT Services \$ 0 \$ 3,537,824 76654

GRF 100457 Equal Opportunity \$ 0 \$ 1,610,516 76655

Services

|                             |                      |                            |    |             |    |                             |       |
|-----------------------------|----------------------|----------------------------|----|-------------|----|-----------------------------|-------|
| GRF                         | <u>100458</u>        | <u>State Construction</u>  | \$ |             | \$ | <u>2,745,751</u>            | 76656 |
|                             |                      | <u>Management Services</u> |    |             |    |                             |       |
| GRF                         | 102321               | Construction               | \$ | 920,000     | \$ | <del>920,000</del> <u>0</u> | 76657 |
|                             |                      | Compliance                 |    |             |    |                             |       |
| GRF                         | 130321               | State Agency Support       | \$ | 2,779,457   | \$ | <del>2,780,032</del>        | 76658 |
|                             |                      | Services                   |    |             |    | <u>2,752,232</u>            |       |
| TOTAL GRF                   | General Revenue Fund |                            | \$ | 118,192,516 | \$ | <del>148,320,243</del>      | 76659 |
|                             |                      |                            |    |             |    | <u>150,673,694</u>          |       |
| General Services Fund Group |                      |                            |    |             |    |                             | 76660 |
| 1120                        | 100616               | DAS Administration         | \$ | 5,974,625   | \$ | <del>5,886,524</del>        | 76661 |
|                             |                      |                            |    |             |    | <u>5,827,659</u>            |       |
| 1150                        | 100632               | Central Service Agency     | \$ | 911,995     | \$ | <del>912,305</del>          | 76662 |
|                             |                      |                            |    |             |    | <u>903,182</u>              |       |
| 1170                        | 100644               | General Services           | \$ | 13,000,000  | \$ | 13,000,000                  | 76663 |
|                             |                      | Division - Operating       |    |             |    |                             |       |
| 1220                        | 100637               | Fleet Management           | \$ | 3,978,827   | \$ | <del>4,204,066</del>        | 76664 |
|                             |                      |                            |    |             |    | <u>4,412,025</u>            |       |
| 1250                        | 100622               | Human Resources            | \$ | 16,922,295  | \$ | <del>16,717,009</del>       | 76665 |
|                             |                      | Division - Operating       |    |             |    | <u>16,549,839</u>           |       |
| 1250                        | 100657               | Benefits Communication     | \$ | 925,586     | \$ | <del>921,531</del>          | 76666 |
|                             |                      |                            |    |             |    | <u>912,316</u>              |       |
| 1280                        | 100620               | Collective Bargaining      | \$ | 3,462,529   | \$ | <del>3,464,148</del>        | 76667 |
|                             |                      |                            |    |             |    | <u>3,429,507</u>            |       |
| 1300                        | 100606               | Risk Management            | \$ | 10,349,494  | \$ | <del>12,149,884</del>       | 76668 |
|                             |                      | Reserve                    |    |             |    | <u>12,028,385</u>           |       |
| 1310                        | 100639               | State Architect's          | \$ | 9,812,132   | \$ | <del>9,813,342</del>        | 76669 |
|                             |                      | Office                     |    |             |    | <u>9,463,342</u>            |       |
| 1320                        | 100631               | DAS Building               | \$ | 11,000,000  | \$ | 11,000,000                  | 76670 |
|                             |                      | Management                 |    |             |    |                             |       |
| 1330                        | 100607               | IT Services Delivery       | \$ | 58,088,940  | \$ | <del>58,103,005</del>       | 76671 |
|                             |                      |                            |    |             |    | <u>57,521,975</u>           |       |
| 1880                        | 100649               | Equal Opportunity          | \$ | 939,559     | \$ | 863,013                     | 76672 |
|                             |                      | Division - Operating       |    |             |    |                             |       |

|                                    |        |                        |    |             |    |                        |       |
|------------------------------------|--------|------------------------|----|-------------|----|------------------------|-------|
| 2100                               | 100612 | State Printing         | \$ | 17,597,054  | \$ | 16,659,526             | 76673 |
| 2290                               | 100630 | IT Governance          | \$ | 14,000,000  | \$ | 14,000,000             | 76674 |
| 2290                               | 100640 | Leveraged Enterprise   | \$ | 3,000,000   | \$ | <del>3,000,000</del>   | 76675 |
|                                    |        | Purchases              |    |             |    | <u>2,816,535</u>       |       |
| 4270                               | 100602 | Investment Recovery    | \$ | 4,100,000   | \$ | <del>4,100,000</del>   | 76676 |
|                                    |        |                        |    |             |    | <u>4,000,000</u>       |       |
| 4N60                               | 100617 | Major IT Purchases     | \$ | 1,950,000   | \$ | 4,950,000              | 76677 |
| 4P30                               | 100603 | DAS Information        | \$ | 5,047,565   | \$ | <del>4,979,392</del>   | 76678 |
|                                    |        | Services               |    |             |    | <u>4,929,598</u>       |       |
| 5C20                               | 100605 | MARCS Administration   | \$ | 14,075,705  | \$ | 14,077,467             | 76679 |
| 5C30                               | 100608 | Skilled Trades         | \$ | 404,297     | \$ | <del>404,375</del>     | 76680 |
|                                    |        |                        |    |             |    | <u>204,375</u>         |       |
| 5EB0                               | 100635 | OAKS Support           | \$ | 19,000,539  | \$ | <del>19,003,108</del>  | 76681 |
|                                    |        | Organization           |    |             |    | <u>18,813,077</u>      |       |
| 5EB0                               | 100656 | OAKS Updates and       | \$ | 12,265,952  | \$ | <del>8,743,462</del>   | 76682 |
|                                    |        | Developments           |    |             |    | <u>8,656,027</u>       |       |
| 5HU0                               | 100655 | Construction Reform    | \$ | 150,000     | \$ | 150,000                | 76683 |
|                                    |        | Demo Compliance        |    |             |    |                        |       |
| 5L70                               | 100610 | Professional           | \$ | 2,496,679   | \$ | 2,496,760              | 76684 |
|                                    |        | Development            |    |             |    |                        |       |
| 5V60                               | 100619 | Employee Educational   | \$ | 800,000     | \$ | 850,000                | 76685 |
|                                    |        | Development            |    |             |    |                        |       |
| 5X30                               | 100634 | Centralized Gateway    | \$ | 2,052,308   | \$ | 2,052,308              | 76686 |
|                                    |        | Enhancement            |    |             |    |                        |       |
| TOTAL GSF General Services Fund    |        |                        |    |             |    |                        | 76687 |
| Group                              |        |                        | \$ | 232,306,081 | \$ | <del>232,501,225</del> | 76688 |
|                                    |        |                        |    |             |    | <u>230,566,916</u>     |       |
| Federal Special Revenue Fund Group |        |                        |    |             |    |                        | 76689 |
| 3AJ0                               | 100654 | ARRA Broadband Mapping | \$ | 270,756     | \$ | 106,347                | 76690 |
|                                    |        | Grant                  |    |             |    |                        |       |
| TOTAL FED Federal Special Revenue  |        |                        |    |             |    |                        | 76691 |
| Fund Group                         |        |                        | \$ | 270,756     | \$ | 106,347                | 76692 |
| State Special Revenue Fund Group   |        |                        |    |             |    |                        | 76693 |

|                                 |                      |    |             |    |                        |       |
|---------------------------------|----------------------|----|-------------|----|------------------------|-------|
| 5JQ0 100658                     | Professions          | \$ | 2,000,000   | \$ | <del>1,000,000</del>   | 76694 |
|                                 | <u>Professionals</u> |    |             |    | <u>990,000</u>         |       |
|                                 | Licensing System     |    |             |    |                        |       |
| TOTAL SSR State Special Revenue |                      |    |             |    |                        | 76695 |
| Fund Group                      |                      | \$ | 2,000,000   | \$ | <del>1,000,000</del>   | 76696 |
|                                 |                      |    |             |    | <u>990,000</u>         |       |
| TOTAL ALL BUDGET FUND GROUPS    |                      | \$ | 352,769,353 | \$ | <del>381,927,815</del> | 76697 |
|                                 |                      |    |             |    | <u>382,336,957</u>     |       |

**Sec. 207.10.80.** DAS - BUILDING OPERATING PAYMENTS 76699

The foregoing appropriation item 100449, DAS - Building 76700  
Operating Payments, shall be used to pay the rent expenses of 76701  
veterans organizations pursuant to section 123.024 of the Revised 76702  
Code in fiscal years 2012 and 2013. 76703

The foregoing appropriation item, 100449, DAS - Building 76704  
Operating Payments, also may be used to provide funding for the 76705  
cost of property appraisals or building studies that the 76706  
Department of Administrative Services may be required to obtain 76707  
for property that is being sold by the state or property under 76708  
consideration to be renovated or purchased by the state. 76709

Notwithstanding section 125.28 of the Revised Code, the 76710  
remaining portion of the appropriation may be used to pay the 76711  
operating expenses of state facilities maintained by the 76712  
Department of Administrative Services that are not billed to 76713  
building tenants, or other costs associated with the Voinovich 76714  
Center in Youngstown, Ohio. These expenses may include, but are 76715  
not limited to, the costs for vacant space and space undergoing 76716  
renovation, and the rent expenses of tenants that are relocated 76717  
because of building renovations. These payments shall be processed 76718  
by the Department of Administrative Services through intrastate 76719  
transfer vouchers and placed in the Building Management Fund (Fund 76720  
1320). 76721

STATE IT SERVICES

76722

The foregoing appropriation item 100456, State IT Services, 76723  
shall be used to pay costs associated with the Ohio Business 76724  
Gateway, State Portal, and Shared Hosting Service that were 76725  
formerly paid from appropriation item 100418, Web Sites and 76726  
Business Gateway, and costs associated with statewide operators 76727  
and the Ohio Geographically Referenced Information Program that 76728  
were formerly paid from appropriation item 100419, IT Security 76729  
Infrastructure. The Director of Budget and Management shall cancel 76730  
any existing encumbrances against appropriation items 100418, Web 76731  
Site and Business Gateway and 100419, IT Security Infrastructure, 76732  
and reestablish them against appropriation item 100456, State IT 76733  
Services. The reestablished encumbrance amounts are hereby 76734  
appropriated. 76735

EQUAL OPPORTUNITY SERVICES

76736

The foregoing appropriation item 100457, Equal Opportunity 76737  
Services, shall be used to pay costs associated with the 76738  
certification of businesses for participation in the Minority 76739  
Business Enterprise and Encouraging Diversity, Growth and Equity 76740  
Programs that were formerly paid from appropriation item 100439, 76741  
Equal Opportunity Certification Programs; the activities of the 76742  
Ohio Dr. Martin Luther King, Jr. Holiday Commission that were 76743  
formerly paid from appropriation item 100451, Minority Affairs; 76744  
and the monitoring of equal employment opportunity (EEO) and 76745  
affirmative action requirements to ensure contractors bidding on 76746  
and receiving contracts comply with EEO laws, rules, and 76747  
regulations that were formerly paid from appropriation item 76748  
102321, Construction Compliance. The Director of Budget and 76749  
Management shall cancel any existing encumbrances against 76750  
appropriation items 100439, Equal Opportunity Certification 76751  
Programs; 100451, Minority Affairs; and 102321, Construction 76752  
Compliance, and reestablish them against appropriation item 76753

100457, Equal Opportunity Services. The reestablished encumbrance 76754  
amounts are hereby appropriated. 76755

STATE CONSTRUCTION MANAGEMENT SERVICES 76756

The foregoing appropriation item 100458, State Construction 76757  
Management Services, shall be used to pay costs of statewide 76758  
shared construction-related services and capital improvement 76759  
project management services provided through the state's 76760  
enterprise resource planning system. 76761

CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE 76762  
HUMAN RESOURCES SERVICES FUND 76763

Upon request of the Director of Administrative Services, in 76764  
FY 2013, the Director of Budget and Management shall transfer up 76765  
to \$975,000 from the Workforce Development Fund (Fund 5D70) to the 76766  
Human Resources Services Fund (Fund 1250) to support one-time 76767  
human resources administration activities for state agencies. 76768

**Sec. 207.20.10. GENERAL SERVICE CHARGES** 76769

The Department of Administrative Services, with the approval 76770  
of the Director of Budget and Management, shall establish charges 76771  
for recovering the costs of administering the programs funded by 76772  
the General Services Fund (Fund 1170) and the State Printing Fund 76773  
(Fund 2100). Such charges within Fund 1170 may be used to recover 76774  
the cost of paying a vendor to establish reduced pricing for 76775  
contracted supplies or services. 76776

If the Director of Administrative Services determines that 76777  
additional amounts are necessary to pay for consulting and 76778  
administrative costs related to securing lower pricing, the 76779  
Director of Administrative Services may request that the Director 76780  
of Budget and Management approve additional expenditures. Such 76781  
approved additional amounts are appropriated to appropriation item 76782  
100644, General Services Division-Operating. 76783

**Sec. 207.20.30. EQUAL OPPORTUNITY PROGRAM** 76784

The Department of Administrative Services, with the approval 76785  
of the Director of Budget and Management, shall establish charges 76786  
for recovering the costs of administering the activities supported 76787  
by the State EEO Fund (Fund 1880). These charges shall be 76788  
deposited to the credit of the State EEO Fund (Fund 1880) upon 76789  
payment made by state agencies, state-supported or state-assisted 76790  
institutions of higher education, and tax-supported agencies, 76791  
municipal corporations, and other political subdivisions of the 76792  
state, for services rendered. 76793

LEVERAGED ENTERPRISE PURCHASES 76794

The foregoing appropriation item 100640, Leveraged Enterprise 76795  
Purchases, shall be used by the Department of Administrative 76796  
Services to make information technology purchases for the benefit 76797  
of one or more government entities as authorized under division 76798  
(G) of section 125.18 of the Revised Code. If the Director of 76799  
Administrative Services determines that the existing appropriation 76800  
is insufficient to timely make such purchases, the Director of 76801  
Administrative Services shall seek Controlling Board approval for 76802  
an increase in appropriation to make the requested purchases. 76803

~~**Sec. 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES 76804  
FUND**~~ 76805

~~Upon request of the Director of Administrative Services, the 76806  
Director of Budget and Management may make the following transfers 76807  
from the Major IT Purchases Fund (Fund 4N60): 76808~~

~~(1) Up to \$2,800,000 in each fiscal year of the biennium to 76809  
the State Architect's Fund (Fund 1310) to support the OAKS Capital 76810  
Improvements Module and other costs of the State Architect's 76811  
Office that are not directly related to capital projects managed 76812  
by the State Architect; 76813~~

~~(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in~~ 76814  
~~fiscal year 2013 to the Director's Office Fund (Fund 1120) to~~ 76815  
~~support operating expenses of the Accountability and Results~~ 76816  
~~Initiative.~~ 76817

CASH TRANSFERS TO THE MAJOR IT PURCHASES FUND 76818

Upon request of the Director of Administrative Services, the 76819  
Director of Budget and Management may transfer up to \$4,000,000 76820  
from the OAKS Support Organization Fund (Fund 5EB0) to the Major 76821  
IT Purchases Fund (Fund 4N60). This amount represents cash 76822  
transferred from Fund 4N60 during fiscal year 2010 pursuant to 76823  
Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General 76824  
Assembly. Any portion of appropriation item 100617, Major IT 76825  
Purchases, that is unencumbered and unexpended at the end of 76826  
fiscal year 2012 is hereby reappropriated for fiscal year 2013. 76827

**Sec. 209.10. AGE DEPARTMENT OF AGING** 76828

General Revenue Fund 76829

|     |        |                    |    |           |    |                      |       |
|-----|--------|--------------------|----|-----------|----|----------------------|-------|
| GRF | 490321 | Operating Expenses | \$ | 1,501,616 | \$ | <del>1,502,442</del> | 76830 |
|     |        |                    |    |           |    | <u>1,487,418</u>     |       |

|     |        |                |    |         |    |                    |       |
|-----|--------|----------------|----|---------|----|--------------------|-------|
| GRF | 490410 | Long-Term Care | \$ | 482,271 | \$ | <del>482,271</del> | 76831 |
|     |        | Ombudsman      |    |         |    | <u>477,448</u>     |       |

|     |        |                  |    |           |    |                      |       |
|-----|--------|------------------|----|-----------|----|----------------------|-------|
| GRF | 490411 | Senior Community | \$ | 7,130,952 | \$ | <del>7,131,236</del> | 76832 |
|     |        | Services         |    |           |    | <u>7,060,844</u>     |       |

|     |        |                     |    |           |    |                      |       |
|-----|--------|---------------------|----|-----------|----|----------------------|-------|
| GRF | 490414 | Alzheimer's Respite | \$ | 1,917,740 | \$ | <del>1,917,757</del> | 76833 |
|     |        |                     |    |           |    | <u>1,895,245</u>     |       |

|     |        |                       |    |           |    |                      |       |
|-----|--------|-----------------------|----|-----------|----|----------------------|-------|
| GRF | 490423 | Long-Term Care Budget | \$ | 3,419,250 | \$ | <del>3,419,250</del> | 76834 |
|     |        | - State               |    |           |    | <u>3,385,057</u>     |       |

|     |        |                 |    |         |    |         |       |
|-----|--------|-----------------|----|---------|----|---------|-------|
| GRF | 490506 | National Senior | \$ | 241,413 | \$ | 241,413 | 76835 |
|     |        | Service Corps   |    |         |    |         |       |

|           |                      |    |            |    |                       |       |
|-----------|----------------------|----|------------|----|-----------------------|-------|
| TOTAL GRF | General Revenue Fund | \$ | 14,693,242 | \$ | <del>14,694,369</del> | 76836 |
|           |                      |    |            |    | <u>14,547,425</u>     |       |

General Services Fund Group 76837

|  |        |   |    |            |    |   |       |
|--|--------|---|----|------------|----|---|-------|
| 4800   | 490606 | Senior Community Outreach and Education   | \$ | 372,518    | \$ | 372,523                                     | 76838 |
| TOTAL GSF General Services Fund Group        |        |   |    |            |    |   | 76839 |
|  |        |   | \$ | 372,518    | \$ | 372,523                                     | 76840 |
| Federal Special Revenue Fund Group           |        |   |    |            |    |   | 76841 |
| 3220   | 490618 | Federal Aging Grants                      | \$ | 14,000,000 | \$ | 14,000,000                                  | 76842 |
| 3C40   | 490623 | Long_Term Care Budget                     | \$ | 3,525,000  | \$ | 3,525,000                                   | 76843 |
| 3M40   | 490612 | Federal Independence Services             | \$ | 63,655,080 | \$ | 63,655,080                                  | 76844 |
| TOTAL FED Federal Special Revenue Fund Group |        |   |    |            |    |   | 76845 |
|  |        |   | \$ | 81,180,080 | \$ | 81,180,080                                  | 76846 |
| State Special Revenue Fund Group             |        |   |    |            |    |   | 76847 |
| 4C40   | 490609 | Regional Long-Term Care Ombudsman Program | \$ | 935,000    | \$ | <del>935,000</del><br><u>2,435,000</u>      | 76848 |
| 5BA0   | 490620 | Ombudsman Support                         | \$ | 750,000    | \$ | 750,000                                     | 76849 |
| 5K90   | 490613 | Long_Term Care Consumers Guide            | \$ | 1,059,400  | \$ | 1,059,400                                   | 76850 |
| 5W10   | 490616 | Resident Services Coordinator Program     | \$ | 344,692    | \$ | 344,700                                     | 76851 |
| TOTAL SSR State Special Revenue Fund Group   |        |   |    |            |    |   | 76852 |
|  |        |   | \$ | 3,089,092  | \$ | <del>3,089,100</del><br><u>4,589,100</u>    | 76853 |
| TOTAL ALL BUDGET FUND GROUPS                 |        |   |    |            |    |   | 76854 |
|  |        |   | \$ | 99,334,932 | \$ | <del>99,336,072</del><br><u>100,689,128</u> |       |

**Sec. 209.20. LONG-TERM CARE**

76856

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

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76860

under section 173.42 of the Revised Code to assist individuals in 76861  
planning for their long-term health care needs. 76862

The Department of Aging shall administer the Medicaid 76863  
waiver-funded PASSPORT Home Care Program, the Choices Program, the 76864  
Assisted Living Program, and the PACE Program as delegated by the 76865  
Department of Job and Family Services in an interagency agreement. 76866  
The foregoing appropriation items 490423, Long\_Term Care Budget - 76867  
State, and 490623, Long\_Term Care Budget, may be used to support 76868  
the Department of Aging's administrative costs associated with 76869  
operating the PASSPORT, Choices, Assisted Living, and PACE 76870  
programs. 76871

**Sec. 209.30. LONG-TERM CARE OMBUDSMAN** 76872

The foregoing appropriation item 490410, Long-Term Care 76873  
Ombudsman, shall be used for a program to fund ombudsman program 76874  
activities as authorized in sections 173.14 to 173.27 and section 76875  
173.99 of the Revised Code. 76876

**SENIOR COMMUNITY SERVICES** 76877

The foregoing appropriation item 490411, Senior Community 76878  
Services, shall be used for services designated by the Department 76879  
of Aging, including, but not limited to, home-delivered and 76880  
congregate meals, transportation services, personal care services, 76881  
respite services, adult day services, home repair, care 76882  
coordination, and decision support systems. Service priority shall 76883  
be given to low income, frail, and cognitively impaired persons 60 76884  
years of age and over. The department shall promote cost sharing 76885  
by service recipients for those services funded with senior 76886  
community services funds, including, when possible, sliding-fee 76887  
scale payment systems based on the income of service recipients. 76888

**ALZHEIMER'S RESPITE** 76889

The foregoing appropriation item 490414, Alzheimer's Respite, 76890

shall be used to fund only Alzheimer's disease services under 76891  
section 173.04 of the Revised Code. 76892

SENIOR COMMUNITY OUTREACH AND EDUCATION 76893

The foregoing appropriation item 490606, Senior Community 76894  
Outreach and Education, may be used to provide training to workers 76895  
in the field of aging pursuant to division (G) of section 173.02 76896  
of the Revised Code. 76897

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES 76898  
AND FEDERAL AGING GRANTS 76899

At the request of the Director of Aging, the Director of 76900  
Budget and Management may transfer appropriation between 76901  
appropriation items 490612, Federal Independence Services, and 76902  
490618, Federal Aging Grants. The amounts transferred shall not 76903  
exceed 30 per cent of the appropriation from which the transfer is 76904  
made. Any transfers shall be reported by the Department of Aging 76905  
to the Controlling Board at the next scheduled meeting of the 76906  
board. 76907

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 76908

~~The Of the~~ foregoing appropriation item 490609, Regional 76909  
Long-Term Care Ombudsman Program, \$935,000 in each fiscal year 76910  
shall be used to pay the costs of operating the regional long-term 76911  
care ombudsman programs designated by the Long-Term Care 76912  
Ombudsman. 76913

Notwithstanding division (B) of section 173.26 of the Revised 76914  
Code, of the foregoing appropriation item 490609, Regional 76915  
Long-Term Care Ombudsman Program, \$1,500,000 in fiscal year 2013 76916  
shall be used for costs associated with the Aging in Place Pilot 76917  
Program. 76918

TRANSFER OF RESIDENT PROTECTION FUNDS 76919

In each fiscal year, the Director of Budget and Management 76920

may transfer up to \$750,000 cash from the Resident Protection Fund 76921  
(Fund 4E30), which is used by the Department of Job and Family 76922  
Services, to the Ombudsman Support Fund (Fund 5BA0), which is used 76923  
by the Department of Aging. The moneys in the Ombudsman Support 76924  
Fund may be used by the state office of the Long-Term Care 76925  
Ombudsman Program and by regional ombudsman programs to promote 76926  
person-centered care in nursing homes. 76927

On July 1, 2011, or as soon as possible thereafter, the 76928  
Department of Aging shall certify to the Director of Budget and 76929  
Management the amount of the cash balance in the Ombudsman Support 76930  
Fund at the end of fiscal year 2011. 76931

LONG-TERM CARE CONSUMERS GUIDE 76932

The foregoing appropriation item 490613, Long-Term Care 76933  
Consumers Guide, shall be used to conduct annual customer 76934  
satisfaction surveys and to pay for other administrative expenses 76935  
related to the publication of the Ohio Long-Term Care Consumer 76936  
Guide. 76937

During fiscal year 2012 and fiscal year 2013, the Department 76938  
of Aging shall identify methods and tools for assessing consumer 76939  
satisfaction with adult care facilities and with the providers of 76940  
home and community-based services. The Department shall also 76941  
consider the development of a provider fee structure to support 76942  
the inclusion of information about adult care facilities and 76943  
providers of home and community-based services among the types of 76944  
providers reviewed in the Ohio Long-Term Care Consumer Guide. 76945

**Sec. 211.10. AGR DEPARTMENT OF AGRICULTURE** 76946

General Revenue Fund 76947

|            |                        |    |           |    |           |       |
|------------|------------------------|----|-----------|----|-----------|-------|
| GRF 700401 | Animal Disease Control | \$ | 3,936,687 | \$ | 3,936,687 | 76948 |
| GRF 700403 | Dairy Division         | \$ | 1,088,115 | \$ | 1,088,115 | 76949 |
| GRF 700404 | Ohio Proud             | \$ | 50,000    | \$ | 50,000    | 76950 |

|             |   |               |               |       |
|-------------|---|---------------|---------------|-------|
| GRF 700406  | Consumer Analytical<br>Lab                    | \$ 1,287,556  | \$ 1,287,556  | 76951 |
| GRF 700407  | Food Safety                                   | \$ 848,792    | \$ 848,792    | 76952 |
| GRF 700409  | Farmland Preservation                         | \$ 72,750     | \$ 72,750     | 76953 |
| GRF 700412  | Weights and Measures                          | \$ 600,000    | \$ 600,000    | 76954 |
| GRF 700415  | Poultry Inspection                            | \$ 392,978    | \$ 392,978    | 76955 |
| GRF 700418  | Livestock Regulation<br>Program               | \$ 1,108,071  | \$ 1,108,071  | 76956 |
| GRF 700424  | Livestock Testing and<br>Inspections          | \$ 102,770    | \$ 102,770    | 76957 |
| GRF 700499  | Meat Inspection<br>Program - State Share      | \$ 4,175,097  | \$ 4,175,097  | 76958 |
| GRF 700501  | County Agricultural<br>Societies              | \$ 391,413    | \$ 391,413    | 76959 |
| TOTAL GRF   | General Revenue Fund                          | \$ 14,054,229 | \$ 14,054,229 | 76960 |
|             | General Services Fund Group                   |               |               | 76961 |
| 5DA0 700644 | Laboratory<br>Administration<br>Support       | \$ 1,094,867  | \$ 1,094,867  | 76962 |
| 5GH0 700655 | Central Support<br>Indirect Cost              | \$ 4,456,842  | \$ 4,456,842  | 76963 |
| TOTAL GSF   | General Services Fund<br>Group                | \$ 5,551,709  | \$ 5,551,709  | 76964 |
|             | Federal Special Revenue Fund Group            |               |               | 76965 |
| 3260 700618 | Meat Inspection<br>Program - Federal<br>Share | \$ 4,950,000  | \$ 4,950,000  | 76966 |
| 3360 700617 | Ohio Farm Loan<br>Revolving Fund              | \$ 150,000    | \$ 150,000    | 76967 |
| 3820 700601 | Cooperative Contracts                         | \$ 2,000,000  | \$ 2,000,000  | 76968 |
| 3AB0 700641 | Agricultural Easement                         | \$ 1,000,000  | \$ 1,000,000  | 76969 |
| 3J40 700607 | Indirect Cost                                 | \$ 600,000    | \$ 600,000    | 76970 |

|                                  |        |                         |    |                      |    |           |       |
|----------------------------------|--------|-------------------------|----|----------------------|----|-----------|-------|
| 3R20                             | 700614 | Federal Plant           | \$ | 1,000,000            | \$ | 1,000,000 | 76971 |
|                                  |        | Industry                |    |                      |    |           |       |
| TOTAL FED                        |        | Federal Special Revenue |    |                      |    |           | 76972 |
| Fund Group                       |        |                         | \$ | 9,700,000            | \$ | 9,700,000 | 76973 |
| State Special Revenue Fund Group |        |                         |    |                      |    |           | 76974 |
| 4960                             | 700626 | Ohio Grape Industries   | \$ | 846,611              | \$ | 846,611   | 76975 |
| 4970                             | 700627 | Commodity Handlers      | \$ | 483,402              | \$ | 483,402   | 76976 |
|                                  |        | Regulatory Program      |    |                      |    |           |       |
| 4C90                             | 700605 | Commercial Feed and     | \$ | 1,816,897            | \$ | 1,816,897 | 76977 |
|                                  |        | Seed                    |    |                      |    |           |       |
| 4D20                             | 700609 | Auction Education       | \$ | 41,000               | \$ | 41,000    | 76978 |
| 4E40                             | 700606 | Utility Radiological    | \$ | 131,785              | \$ | 131,785   | 76979 |
|                                  |        | Safety                  |    |                      |    |           |       |
| 4P70                             | 700610 | Food Safety             | \$ | 1,085,836            | \$ | 1,085,836 | 76980 |
|                                  |        | Inspection              |    |                      |    |           |       |
| 4R00                             | 700636 | Ohio Proud Marketing    | \$ | 30,500               | \$ | 30,500    | 76981 |
| 4R20                             | 700637 | Dairy Industry          | \$ | 1,758,247            | \$ | 1,758,247 | 76982 |
|                                  |        | Inspection              |    |                      |    |           |       |
| 4T60                             | 700611 | Poultry and Meat        | \$ | 180,000              | \$ | 180,000   | 76983 |
|                                  |        | Inspection              |    |                      |    |           |       |
| 4T70                             | 700613 | Ohio Proud              | \$ | 50,000               | \$ | 50,000    | 76984 |
|                                  |        | International and       |    |                      |    |           |       |
|                                  |        | Domestic Market         |    |                      |    |           |       |
|                                  |        | Development             |    |                      |    |           |       |
| 5780                             | 700620 | Ride Inspection Fees    | \$ | 1,175,142            | \$ | 1,175,142 | 76985 |
| 5B80                             | 700629 | Auctioneers             | \$ | 359,823              | \$ | 359,823   | 76986 |
| 5FC0                             | 700648 | Plant Pest Program      | \$ | <del>1,164,000</del> | \$ | 1,164,000 | 76987 |
|                                  |        |                         |    | <u>3,164,000</u>     |    |           |       |
| 5H20                             | 700608 | Metrology Lab and       | \$ | 750,000              | \$ | 750,000   | 76988 |
|                                  |        | Scale Certification     |    |                      |    |           |       |
| 5HP0                             | 700656 | Livestock Care          | \$ | 80,000               | \$ | 80,000    | 76989 |
|                                  |        | Standards Board         |    |                      |    |           |       |
| 5L80                             | 700604 | Livestock Management    | \$ | 584,000              | \$ | 584,000   | 76990 |

|                                    |         |                       |    |                       |               |       |
|------------------------------------|---------|-----------------------|----|-----------------------|---------------|-------|
|                                    | Program |                       |    |                       |               |       |
| 6520                               | 700634  | Animal and Consumer   | \$ | 4,366,383             | \$ 4,366,383  | 76991 |
|                                    |         | Analytical Laboratory |    |                       |               |       |
| 6690                               | 700635  | Pesticide,            | \$ | 3,418,041             | \$ 3,418,041  | 76992 |
|                                    |         | Fertilizer, and Lime  |    |                       |               |       |
|                                    |         | Inspection Program    |    |                       |               |       |
| TOTAL SSR State Special Revenue    |         |                       |    |                       |               | 76993 |
| Fund Group                         |         |                       | \$ | <del>18,321,667</del> | \$ 18,321,667 | 76994 |
|                                    |         |                       |    | <u>20,321,667</u>     |               |       |
| Clean Ohio Conservation Fund Group |         |                       |    |                       |               | 76995 |
| 7057                               | 700632  | Clean Ohio            | \$ | 310,000               | \$ 310,000    | 76996 |
|                                    |         | Agricultural Easement |    |                       |               |       |
| TOTAL CLF Clean Ohio Conservation  |         |                       | \$ | 310,000               | \$ 310,000    | 76997 |
| Fund Group                         |         |                       |    |                       |               |       |
| TOTAL ALL BUDGET FUND GROUPS       |         |                       | \$ | <del>47,937,605</del> | \$ 47,937,605 | 76998 |
|                                    |         |                       |    | <u>49,937,605</u>     |               |       |

COUNTY AGRICULTURAL SOCIETIES 76999

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities. 77000  
77001  
77002  
77003

ABOLISHMENT OF VARIOUS FUNDS 77004

Upon the effective date of this amendment, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balances in the following twelve funds to the Indirect Cost Fund (Fund 5GH0): (1) the Federal Grants Fund (Fund 3X60), (2) the Specialty Crops Support Fund (Fund 3X70), (3) the Fruits and Vegetables Fund (Fund 4930), (4) the Dairy Fund (Fund 4V00), (5) the Animal Industry Fund (Fund 4VS0), (6) the Scale Certification Fund (Fund 5790), (7) the Weights and Measures Permits Fund (Fund 58F0), (8) the Food Policy Council Fund (Fund 5FD0), (9) the Sustainable Agriculture Fund (Fund 5FE0), (10) the 77005  
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77014

Pilot Farmland Preservation Fund (Fund 5GS0), (11) the Farm Service Electronic Filing Fund (Fund SY70), and (12) the Seed Fund (Fund SZ40). Upon completion of the cash transfers, the funds from which the required cash transfers were made are abolished. The Director shall cancel any existing encumbrances against applicable line items within the abolished funds and reestablish them against Fund 5GH0 appropriation item 700655, Central Support Indirect Cost. The reestablished encumbrance amounts are hereby appropriated.

ASIAN LONGHORNED BEETLE

On the effective date of this act, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$2,000,000 in cash from the General Revenue Fund to the Plant Pest Fund (Fund 5FC0).

Of the foregoing appropriation item 700648, Plant Pest Program, up to \$2,000,000 in FY 2012 shall be used for reforestation and the eradication of the Asian Longhorned Beetle. Any portion of this transfer that remains unexpended and unencumbered in FY 2012 is hereby reappropriated for the same purpose in FY 2013.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

**Sec. 215.10.** ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

General Revenue Fund

GRF 038401 Treatment Services \$ 11,225,590 \$ 7,020,974

|                                    |  |           |                                       |           |                                       |       |
|------------------------------------|--|-----------|---------------------------------------|-----------|---------------------------------------|-------|
| GRF 038404                         | Prevention Services  | \$        | 868,659                               | \$        | 868,659                               | 77045 |
| GRF 038501                         | Medicaid Match   | \$        | 23,959,113                            | \$        | 0                                     | 77046 |
| TOTAL GRF                          | General Revenue Fund                                       | \$        | 36,053,362                            | \$        | 7,889,633                             | 77047 |
| General Services Fund              |  |           |                                       |           |                                       | 77048 |
| 5T90 038616                        | Problem Gambling<br>Services                               | \$        | 335,000                               | \$        | 335,000                               | 77049 |
| TOTAL GSF                          | General Services Fund                                      | \$        | 335,000                               | \$        | 335,000                               | 77050 |
| Group                              |  |           |                                       |           |                                       |       |
| Federal Special Revenue Fund Group |  |           |                                       |           |                                       | 77051 |
| 3G40 038614                        | Substance Abuse Block<br>Grant                             | \$        | 69,000,000                            | \$        | 69,000,000                            | 77052 |
| 3H80 038609                        | Demonstration Grants                                       | \$        | 8,675,580                             | \$        | 8,675,580                             | 77053 |
| 3J80 038610                        | Medicaid   | \$        | 69,200,000                            | \$        | 0                                     | 77054 |
| 3N80 038611                        | Administrative<br>Reimbursement                            | \$        | 300,000                               | \$        | 300,000                               | 77055 |
| TOTAL FED                          | Federal Special Revenue<br>Fund Group                      | \$        | 147,175,580                           | \$        | 77,975,580                            | 77056 |
| State Special Revenue Fund Group   |  |           |                                       |           |                                       | 77058 |
| 4750 038621                        | Statewide Treatment<br>and Prevention                      | \$        | 16,000,000                            | \$        | <del>14,000,000</del><br>15,000,000   | 77059 |
| <u>5JL0 038629</u>                 | <u>Problem Casino<br/>Gambling and<br/>Addictions Fund</u> | <u>\$</u> | <u>226,612</u>                        | <u>\$</u> | <u>5,446,364</u>                      | 77060 |
| 5JW0 038615                        | Board Match<br>Reimbursement                               | \$        | 3,000,000                             | \$        | 3,000,000                             | 77061 |
| 6890 038604                        | Education and<br>Conferences                               | \$        | 75,000                                | \$        | 75,000                                | 77062 |
| TOTAL SSR                          | State Special Revenue<br>Fund Group                        | \$        | <del>19,075,000</del><br>19,301,612   | \$        | <del>17,075,000</del><br>23,521,364   | 77063 |
| TOTAL ALL BUDGET FUND GROUPS       |  | \$        | <del>202,638,942</del><br>202,865,554 | \$        | <del>103,275,213</del><br>109,721,577 | 77065 |

**Sec. 215.20.** ALCOHOL AND DRUG ADDICTION MEDICAID MATCH 77067

(A) As used in this section, "community alcohol and drug 77068  
addiction Medicaid services" means services provided under the 77069  
component, or aspect of the component, of the Medicaid program 77070  
that the Department of Alcohol and Drug Addiction Services 77071  
administers pursuant to a contract entered into with the 77072  
Department of Job and Family Services under section 5111.91 of the 77073  
Revised Code. 77074

(B) Subject to division (C) of this section, the foregoing 77075  
appropriation item 038501, Medicaid Match, shall be used by the 77076  
Department of Alcohol and Drug Addiction Services to make payments 77077  
for community alcohol and drug addiction Medicaid services. 77078

(C) For state fiscal year 2012, the Department shall allocate 77079  
foregoing appropriation item 038501, Medicaid Match, and a portion 77080  
of appropriation item 038621, Statewide Treatment and Prevention, 77081  
to boards of alcohol, drug addiction, and mental health services 77082  
in accordance with a distribution methodology the Department shall 77083  
establish. Notwithstanding sections 5111.911 and 5111.913 of the 77084  
Revised Code, the boards shall use the funds allocated to them 77085  
under this section to pay claims for community alcohol and drug 77086  
addiction Medicaid services provided during fiscal year 2012. The 77087  
boards shall use all federal financial participation that the 77088  
Department receives for claims paid for community alcohol and drug 77089  
addiction Medicaid services provided during fiscal year 2012 as 77090  
the first payment source to pay claims for community alcohol and 77091  
drug addiction Medicaid services provided during fiscal year 2012. 77092  
The boards are not required to use any funds other than the funds 77093  
allocated to them under this section and the federal financial 77094  
participation received for claims for community alcohol and drug 77095  
addiction Medicaid services provided during fiscal year 2012 to 77096  
pay for such claims. 77097

(D) The Department shall enter into an agreement with each board regarding the issue of paying claims that are for community alcohol and drug addiction Medicaid services provided before July 1, 2011, and submitted for payment on or after that date. Such claims shall be paid in accordance with the agreements. A board shall receive the federal financial participation received for claims for community alcohol and drug addiction Medicaid services that were provided before July 1, 2011, and paid by the board.

STATEWIDE TREATMENT AND PREVENTION

Of the foregoing appropriation item 038621, Statewide Treatment and Prevention, up to \$1,000,000 in fiscal year 2013 shall be used to fund the pilot program for opioid- and alcohol-dependent offenders established under Section 737.70 of H.B. 487 of the 129th General Assembly.

**Sec. 223.10. AGO ATTORNEY GENERAL**

General Revenue Fund

|           |                      |                                    |    |            |    |            |       |
|-----------|----------------------|------------------------------------|----|------------|----|------------|-------|
| GRF       | 055321               | Operating Expenses                 | \$ | 42,514,169 | \$ | 42,514,169 | 77114 |
| GRF       | 055405               | Law-Related Education              | \$ | 100,000    | \$ | 100,000    | 77115 |
| GRF       | 055411               | County Sheriffs' Pay Supplement    | \$ | 757,921    | \$ | 757,921    | 77116 |
| GRF       | 055415               | County Prosecutors' Pay Supplement | \$ | 831,499    | \$ | 831,499    | 77117 |
| TOTAL GRF | General Revenue Fund |                                    | \$ | 44,203,589 | \$ | 44,203,589 | 77118 |

General Services Fund Group

|      |        |                               |    |            |    |            |       |
|------|--------|-------------------------------|----|------------|----|------------|-------|
| 1060 | 055612 | General Reimbursement         | \$ | 43,357,968 | \$ | 43,011,277 | 77120 |
| 1950 | 055660 | Workers' Compensation Section | \$ | 8,415,504  | \$ | 8,415,504  | 77121 |
| 4180 | 055615 | Charitable Foundations        | \$ | 7,286,000  | \$ | 7,286,000  | 77122 |
| 4200 | 055603 | Attorney General              | \$ | 1,871,674  | \$ | 1,839,074  | 77123 |

|  |               |   |           |                       |           |                       |       |
|--|---------------|---|-----------|-----------------------|-----------|-----------------------|-------|
|  |               | Antitrust                                   |           |                       |           |                       |       |
| 4210   | 055617        | Police Officers' Training Academy Fee       | \$        | 2,124,942             | \$        | 2,088,805             | 77124 |
| 4Z20   | 055609        | BCI Asset Forfeiture and Cost Reimbursement | \$        | 1,529,685             | \$        | 1,521,731             | 77125 |
| 5900   | 055633        | Peace Officer Private Security Fund         | \$        | 98,370                | \$        | 98,370                | 77126 |
| 5A90   | 055618        | Telemarketing Fraud Enforcement             | \$        | 7,500                 | \$        | 7,500                 | 77127 |
| 5L50   | 055619        | Law Enforcement Assistance Program          | \$        | 300,222               | \$        | 0                     | 77128 |
| <u>5LR0</u>                                  | <u>055655</u> | <u>Peace Officer Training - Casino</u>      | <u>\$</u> | <u>192,620</u>        | <u>\$</u> | <u>4,629,409</u>      | 77129 |
| 6310   | 055637        | Consumer Protection Enforcement             | \$        | 3,799,115             | \$        | 3,718,973             | 77130 |
| TOTAL GSF General Services Fund Group        |               |   |           |                       |           |                       | 77131 |
|  |               |   | \$        | <del>68,790,980</del> | \$        | <del>67,987,234</del> | 77132 |
|  |               |   |           | <u>68,983,600</u>     |           | <u>72,616,643</u>     |       |
| Federal Special Revenue Fund Group           |               |   |           |                       |           |                       | 77133 |
| 3060   | 055620        | Medicaid Fraud Control                      | \$        | 4,211,235             | \$        | 4,122,399             | 77134 |
| 3810   | 055611        | Civil Rights Legal Service                  | \$        | 402,540               | \$        | 402,540               | 77135 |
| 3830   | 055634        | Crime Victims Assistance                    | \$        | 13,000,000            | \$        | 13,000,000            | 77136 |
| 3E50   | 055638        | Attorney General Pass-Through Funds         | \$        | 1,223,606             | \$        | 1,222,172             | 77137 |
| 3R60   | 055613        | Attorney General Federal Funds              | \$        | 3,823,251             | \$        | 3,673,251             | 77138 |
| TOTAL FED Federal Special Revenue Fund Group |               |   |           |                       |           |                       | 77139 |
|  |               |   | \$        | 22,660,632            | \$        | 22,420,362            | 77140 |
| State Special Revenue Fund Group             |               |   |           |                       |           |                       | 77141 |

|  |        |  |    |            |    |            |       |
|--|--------|--|----|------------|----|------------|-------|
| 4020   | 055616 | Victims of Crime   | \$ | 26,000,000 | \$ | 26,000,000 | 77142 |
| 4170   | 055621 | Domestic Violence<br>Shelter   | \$ | 25,000     | \$ | 25,000     | 77143 |
| 4190   | 055623 | Claims Section   | \$ | 44,197,843 | \$ | 41,953,025 | 77144 |
| 4L60   | 055606 | DARE Programs  | \$ | 4,477,962  | \$ | 4,477,962  | 77145 |
| 4Y70   | 055608 | Title Defect Recision  | \$ | 600,000    | \$ | 600,000    | 77146 |
| 6590   | 055641 | Solid and Hazardous<br>Waste Background<br>Investigations                | \$ | 662,227    | \$ | 651,049    | 77147 |
| TOTAL SSR State Special Revenue                |        |  |    |            |    |            | 77148 |
| Fund Group                                     |        |  | \$ | 75,963,032 | \$ | 73,707,036 | 77149 |
| Holding Account Redistribution Fund Group      |        |  |    |            |    |            | 77150 |
| R004   | 055631 | General Holding<br>Account   | \$ | 1,000,000  | \$ | 1,000,000  | 77151 |
| R005   | 055632 | Antitrust Settlements  | \$ | 1,000      | \$ | 1,000      | 77152 |
| R018   | 055630 | Consumer Frauds  | \$ | 750,000    | \$ | 750,000    | 77153 |
| R042   | 055601 | Organized Crime<br>Commission<br>Distributions                           | \$ | 25,025     | \$ | 25,025     | 77154 |
| R054   | 055650 | Collection Outside<br>Counsel Payments                                   | \$ | 4,500,000  | \$ | 4,500,000  | 77155 |
| TOTAL 090 Holding Account                      |        |  |    |            |    |            | 77156 |
| Redistribution Fund Group                      |        |  | \$ | 6,276,025  | \$ | 6,276,025  | 77157 |
| Tobacco Master Settlement Agreement Fund Group |        |  |    |            |    |            | 77158 |
| J087   | 055635 | Law Enforcement<br>Technology, Training,<br>and Facility<br>Enhancements | \$ | 2,300,000  | \$ | 0          | 77159 |
| U087   | 055402 | Tobacco Settlement<br>Oversight,<br>Administration, and<br>Enforcement   | \$ | 2,527,992  | \$ | 2,514,690  | 77160 |

|  |    |                        |    |                        |       |
|--|----|------------------------|----|------------------------|-------|
| TOTAL TSF Tobacco Master Settlement Agreement Fund Group | \$ | 4,827,992              | \$ | 2,514,690              | 77161 |
| TOTAL ALL BUDGET FUND GROUPS                             | \$ | <del>222,722,250</del> | \$ | <del>217,108,936</del> | 77162 |
|  |    | <u>222,914,870</u>     |    | <u>221,738,345</u>     |       |

COUNTY SHERIFFS' PAY SUPPLEMENT 77163

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. 77164  
77165  
77166  
77167

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. 77168  
77169  
77170  
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77173

COUNTY PROSECUTORS' PAY SUPPLEMENT 77174

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. 77175  
77176  
77177  
77178

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. 77179  
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77182  
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77185

GENERAL REIMBURSEMENT FUND 77186

Notwithstanding any other provision of law to the contrary, on July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$160,000 cash from the 77187  
77188  
77189

General Revenue Fund to the General Reimbursement Fund (Fund 1060) 77190  
used by the Office of the Attorney General. 77191

WORKERS' COMPENSATION SECTION 77192

The Workers' Compensation Fund (Fund 1950) is entitled to 77193  
receive payments from the Bureau of Workers' Compensation and the 77194  
Ohio Industrial Commission at the beginning of each quarter of 77195  
each fiscal year to fund legal services to be provided to the 77196  
Bureau of Workers' Compensation and the Ohio Industrial Commission 77197  
during the ensuing quarter. The advance payment shall be subject 77198  
to adjustment. 77199

In addition, the Bureau of Workers' Compensation shall 77200  
transfer payments at the beginning of each quarter for the support 77201  
of the Workers' Compensation Fraud Unit. 77202

All amounts shall be mutually agreed upon by the Attorney 77203  
General, the Bureau of Workers' Compensation, and the Ohio 77204  
Industrial Commission. 77205

ATTORNEY GENERAL PASS-THROUGH FUNDS 77206

The foregoing appropriation item 055638, Attorney General 77207  
Pass-Through Funds, shall be used to receive federal grant funds 77208  
provided to the Attorney General by other state agencies, 77209  
including, but not limited to, the Department of Youth Services 77210  
and the Department of Public Safety. 77211

GENERAL HOLDING ACCOUNT 77212

The foregoing appropriation item 055631, General Holding 77213  
Account, shall be used to distribute moneys under the terms of 77214  
relevant court orders or other settlements received in a variety 77215  
of cases involving the Office of the Attorney General. If it is 77216  
determined that additional amounts are necessary for this purpose, 77217  
the amounts are hereby appropriated. 77218

ANTITRUST SETTLEMENTS 77219

The foregoing appropriation item 055632, Antitrust Settlements, shall be used to distribute moneys under the terms of relevant court orders or other out of court settlements in antitrust cases or antitrust matters involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

CONSUMER FRAUDS

The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud that generated the court-ordered judgments. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ORGANIZED CRIME COMMISSION DISTRIBUTIONS

The foregoing appropriation item 055601, Organized Crime Commission Distributions, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the Revised Code, to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

COLLECTION OUTSIDE COUNSEL PAYMENTS

The foregoing appropriation item 055650, Collection Outside Counsel Payments, shall be used for the purpose of paying contingency counsel fees for cases where debtors mistakenly paid the client agencies instead of the Attorney General's Revenue Recovery/Collections Enforcement Section. If it is determined that

additional amounts are necessary for this purpose, the amounts are 77251  
hereby appropriated. 77252

**Sec. 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT** 77253

General Revenue Fund 77254

GRF 042321 Budget Development \$ 2,362,025 \$ ~~2,378,166~~ 77255  
and Implementation 2,353,166

GRF 042409 Commission Closures \$ 50,000 \$ 50,000 77256

GRF 042416 Office of Health \$ 306,285 \$ ~~499,252~~ 77257  
Transformation

GRF 042423 Liquor Enterprise \$ 500,000 \$ 0 77258  
Transaction

TOTAL GRF General Revenue Fund \$ 3,218,310 \$ ~~2,428,166~~ 77259  
2,902,418

General Services Fund Group 77260

1050 042603 State Accounting and \$ ~~21,917,230~~ \$ ~~22,006,331~~ 77261  
Budgeting 21,158,069 22,262,185

5N40 042602 OAKS Project \$ 1,358,000 \$ ~~1,309,500~~ 77262  
Implementation 1,296,000

5Z80 042608 Office of Health \$ 57,752 \$ 0 77263  
Transformation

Administration  
TOTAL GSF General Services Fund \$ ~~23,332,982~~ \$ ~~23,315,831~~ 77264

Group 22,573,821 23,558,185

Federal Special Revenue Fund Group 77265

3CM0 042606 Office of Health \$ 384,037 \$ ~~145,500~~ 77266  
Transformation - 438,723

Federal

TOTAL FED Federal Special Revenue \$ 384,037 \$ ~~145,500~~ 77267  
Fund Group 438,723

Agency Fund Group 77268

|                              |                   |    |                       |                          |                   |       |
|------------------------------|-------------------|----|-----------------------|--------------------------|-------------------|-------|
| 5EH0 042604                  | Forgery Recovery  | \$ | 50,000                | \$ <del>50,000</del>     | <u>49,000</u>     | 77269 |
| TOTAL AGY                    | Agency Fund Group | \$ | 50,000                | \$ <del>50,000</del>     | <u>49,000</u>     | 77270 |
| TOTAL ALL BUDGET FUND GROUPS |                   | \$ | <del>26,985,329</del> | \$ <del>25,939,497</del> |                   | 77271 |
|                              |                   |    | <u>26,226,168</u>     |                          | <u>26,948,326</u> |       |

COMMISSION CLOSURES 77272

The foregoing appropriation item 042409, Commission Closures, 77273  
 may be used to pay obligations associated with the closure of the 77274  
 Commission on Dispute Resolution and Conflict Management, the 77275  
 School Employees Health Care Board, the Legal Rights Service, and 77276  
 the Workers' Compensation Council. Notwithstanding any provision 77277  
 of law to the contrary, this appropriation item may also be used 77278  
 to pay final payroll expenses occurring after the closure of the 77279  
 Commission on Dispute Resolution and Conflict Management, the 77280  
 School Employees Health Care Board, the Legal Rights Service, and 77281  
 the Workers' Compensation Council in the event that appropriations 77282  
 or cash in the closing agency are insufficient to do so. 77283

The Director of Budget and Management may request Controlling 77284  
 Board approval for funds to be transferred to appropriation item 77285  
 042409, Commission Closures, from appropriation item 911614, CB 77286  
 Emergency Purposes, for anticipated expenses associated with 77287  
 agency closures. 77288

LIQUOR ENTERPRISE TRANSACTION 77289

The foregoing appropriation item 042423, Liquor Enterprise 77290  
 Transaction, shall be used by the Director of Budget and 77291  
 Management, without need for any other approval, to retain or 77292  
 contract for the services of commercial appraisers, underwriters, 77293  
 investment bankers, and financial advisers, as are necessary in 77294  
 the Director's judgment to commence negotiation of the transfer 77295  
 agreement referred to in sections 4313.01 and 4313.02 of the 77296  
 Revised Code, as enacted by ~~this act~~ Am. Sub. H.B. 153 of the 77297  
129th General Assembly. Any amounts expended from appropriation 77298  
 item 042423 shall be reimbursed from the proceeds of the 77299

enterprise acquisition project transaction authorized in those sections. 77300  
77301

The Director of Budget and Management, in consultation with the Director of Commerce, may negotiate an initial agreement with JobsOhio, which shall be executed by the Directors of Budget and Management and Commerce upon its completion. 77302  
77303  
77304  
77305

AUDIT COSTS AND DUES 77306

All centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state shall be paid from the foregoing appropriation item 042603, State Accounting and Budgeting. 77307  
77308  
77309  
77310  
77311

Costs associated with the audit of the Auditor of State and national association dues shall be paid from the foregoing appropriation item 042321, Budget Development and Implementation. 77312  
77313  
77314

SHARED SERVICES CENTER 77315

The Director of Budget and Management shall use the OAKS Project Implementation Fund (Fund 5N40) and the Accounting and Budgeting Fund (Fund 1050) to support a Shared Services Center within the Office of Budget and Management for the purpose of consolidating statewide business functions and common transactional processes. 77316  
77317  
77318  
77319  
77320  
77321

The Director of Budget and Management shall include the recovery of costs to operate the Shared Services Center in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies for services rendered. The Director of Budget and Management shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of Fund 1050. 77322  
77323  
77324  
77325  
77326  
77327  
77328

INTERNAL CONTROL AND AUDIT OVERSIGHT 77329

The Director of Budget and Management shall include the 77330  
recovery of costs to operate the Internal Control and Audit 77331  
Oversight Program in the accounting and budgeting services payroll 77332  
rate and through a direct charge using intrastate transfer 77333  
vouchers to agencies reviewed by the program. The Director of 77334  
Budget and Management, with advice from the Internal Audit 77335  
Advisory Council, shall determine the cost recovery methodology. 77336  
Such cost recovery revenues shall be deposited to the credit of 77337  
the Accounting and Budgeting Fund (Fund 1050). 77338

FORGERY RECOVERY 77339

The foregoing appropriation item 042604, Forgery Recovery, 77340  
shall be used to reissue warrants that have been certified as 77341  
forgeries by the rightful recipient as determined by the Bureau of 77342  
Criminal Identification and Investigation and the Treasurer of 77343  
State. Upon receipt of funds to cover the reissuance of the 77344  
warrant, the Director of Budget and Management shall reissue a 77345  
state warrant of the same amount. 77346

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 77347

On July 1 of each fiscal year, or as soon as possible 77348  
thereafter, the Director of Budget and Management shall transfer 77349  
an amount not to exceed \$1,100,000 in cash from the General 77350  
Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 77351

**Sec. 243.10. COM DEPARTMENT OF COMMERCE** 77352

General Services Fund Group 77353

|      |        |                        |    |            |    |                       |       |
|------|--------|------------------------|----|------------|----|-----------------------|-------|
| 1630 | 800620 | Division of            | \$ | 6,200,000  | \$ | 6,200,000             | 77354 |
|      |        | Administration         |    |            |    |                       |       |
| 1630 | 800637 | Information Technology | \$ | 5,999,892  | \$ | 6,011,977             | 77355 |
| 5430 | 800602 | Unclaimed              | \$ | 7,836,107  | \$ | 7,841,473             | 77356 |
|      |        | Funds-Operating        |    |            |    |                       |       |
| 5430 | 800625 | Unclaimed Funds-Claims | \$ | 69,700,000 | \$ | <del>69,800,000</del> | 77357 |

|                                    |        |                        |    |            |                   |                       |       |
|------------------------------------|--------|------------------------|----|------------|-------------------|-----------------------|-------|
|                                    |        |                        |    |            | <u>68,000,000</u> |                       |       |
| 5F10                               | 800635 | Small Government Fire  | \$ | 300,000    | \$                | 300,000               | 77358 |
|                                    |        | Departments            |    |            |                   |                       |       |
| TOTAL GSF General Services Fund    |        |                        |    |            |                   |                       | 77359 |
| Group                              |        |                        | \$ | 90,035,999 | \$                | <del>90,153,450</del> | 77360 |
|                                    |        |                        |    |            |                   | <u>88,353,450</u>     |       |
| Federal Special Revenue Fund Group |        |                        |    |            |                   |                       | 77361 |
| 3480                               | 800622 | Underground Storage    | \$ | 1,129,518  | \$                | 1,129,518             | 77362 |
|                                    |        | Tanks                  |    |            |                   |                       |       |
| 3480                               | 800624 | Leaking Underground    | \$ | 1,556,211  | \$                | 1,556,211             | 77363 |
|                                    |        | Storage Tanks          |    |            |                   |                       |       |
| TOTAL FED Federal Special Revenue  |        |                        |    |            |                   |                       | 77364 |
| Fund Group                         |        |                        | \$ | 2,685,729  | \$                | 2,685,729             | 77365 |
| State Special Revenue Fund Group   |        |                        |    |            |                   |                       | 77366 |
| 4B20                               | 800631 | Real Estate Appraisal  | \$ | 35,000     | \$                | 35,000                | 77367 |
|                                    |        | Recovery               |    |            |                   |                       |       |
| 4H90                               | 800608 | Cemeteries             | \$ | 268,067    | \$                | 268,293               | 77368 |
| 4X20                               | 800619 | Financial Institutions | \$ | 2,186,271  | \$                | <del>1,990,693</del>  | 77369 |
|                                    |        |                        |    |            |                   | <u>1,970,786</u>      |       |
| 5440                               | 800612 | Banks                  | \$ | 7,242,364  | \$                | <del>6,942,336</del>  | 77370 |
|                                    |        |                        |    |            |                   | <u>6,872,913</u>      |       |
| 5450                               | 800613 | Savings Institutions   | \$ | 2,257,220  | \$                | 2,259,536             | 77371 |
| 5460                               | 800610 | Fire Marshal           | \$ | 15,400,000 | \$                | <del>15,501,562</del> | 77372 |
|                                    |        |                        |    |            |                   | <u>15,484,574</u>     |       |
| 5460                               | 800639 | Fire Department Grants | \$ | 1,698,802  | \$                | 1,698,802             | 77373 |
| 5470                               | 800603 | Real Estate            | \$ | 125,000    | \$                | <del>125,000</del>    | 77374 |
|                                    |        | Education/Research     |    |            |                   | <u>80,655</u>         |       |
| 5480                               | 800611 | Real Estate Recovery   | \$ | 25,000     | \$                | 25,000                | 77375 |
| 5490                               | 800614 | Real Estate            | \$ | 3,413,708  | \$                | 3,332,308             | 77376 |
| 5500                               | 800617 | Securities             | \$ | 4,312,434  | \$                | <del>4,314,613</del>  | 77377 |
|                                    |        |                        |    |            |                   | <u>4,271,467</u>      |       |
| 5520                               | 800604 | Credit Union           | \$ | 3,450,390  | \$                | <del>3,450,390</del>  | 77378 |

|                                 |  |           |             |                   |                             |
|---------------------------------|--|-----------|-------------|-------------------|-----------------------------|
|                                 |  |           |             | <u>3,415,886</u>  |                             |
| 5530 800607                     | Consumer Finance                               | \$        | 3,613,016   | \$                | <del>3,516,861</del> 77379  |
|                                 |  |           |             | <u>3,481,692</u>  |                             |
| 5560 800615                     | Industrial Compliance                          | \$        | 27,639,372  | \$                | <del>27,664,695</del> 77380 |
|                                 |  |           |             | <u>27,388,048</u> |                             |
| 5FW0 800616                     | Financial Literacy<br>Education                | \$        | 240,000     | \$                | <del>240,000</del> 77381    |
|                                 |  |           |             | <u>200,000</u>    |                             |
| 5GK0 800609                     | Securities Investor<br>Education/Enforcement   | \$        | 1,135,000   | \$                | <del>485,000</del> 77382    |
|                                 |  |           |             | <u>480,150</u>    |                             |
| 5HV0 800641                     | Cigarette Enforcement                          | \$        | 120,000     | \$                | <del>120,000</del> 77383    |
|                                 |  |           |             | <u>118,800</u>    |                             |
| <u>5LN0 800645</u>              | <u>Liquor Operating<br/>Services</u>           | <u>\$</u> | <u>0</u>    | <u>\$</u>         | <u>5,500,000</u> 77384      |
| <u>5LP0 800646</u>              | <u>Liquor Regulatory<br/>Operating Expense</u> | <u>\$</u> | <u>0</u>    | <u>\$</u>         | <u>8,500,000</u> 77385      |
| 5X60 800623                     | Video Service                                  | \$        | 340,299     | \$                | <del>340,630</del> 77386    |
|                                 |  |           |             | <u>337,224</u>    |                             |
| 6530 800629                     | UST Registration/Permit<br>Fee                 | \$        | 1,854,675   | \$                | <del>1,509,653</del> 77387  |
|                                 |  |           |             | <u>1,494,556</u>  |                             |
| 6A40 800630                     | Real Estate<br>Appraiser-Operating             | \$        | 699,565     | \$                | 648,890 77388               |
| TOTAL SSR State Special Revenue |  |           |             |                   | 77389                       |
| Fund Group                      |  | \$        | 76,056,183  | \$                | <del>74,469,262</del> 77390 |
|                                 |  |           |             | <u>87,864,580</u> |                             |
| Liquor Control Fund Group       |  |           |             |                   | 77391                       |
| 7043 800601                     | Merchandising                                  | \$        | 472,209,274 | \$                | 0 77392                     |
| 7043 800627                     | Liquor Control<br>Operating                    | \$        | 13,398,274  | \$                | <del>10,110,479</del> 77393 |
|                                 |  |           |             | <u>1,509,374</u>  |                             |
| 7043 800633                     | Development Assistance<br>Debt Service         | \$        | 51,973,200  | \$                | 0 77394                     |
| 7043 800636                     | Revitalization Debt<br>Service                 | \$        | 21,129,800  | \$                | 0 77395                     |
| TOTAL LCF Liquor Control        |  |           |             |                   | 77396                       |

|                              |                |                           |       |
|------------------------------|----------------|---------------------------|-------|
| Fund Group                   | \$ 558,710,548 | \$ <del>10,110,479</del>  | 77397 |
|                              |                | <u>1,509,374</u>          |       |
| TOTAL ALL BUDGET FUND GROUPS | \$ 727,488,459 | \$ <del>177,418,920</del> | 77398 |
|                              |                | <u>180,413,133</u>        |       |

SMALL GOVERNMENT FIRE DEPARTMENTS 77399

Notwithstanding section 3737.17 of the Revised Code, the 77400  
foregoing appropriation item 800635, Small Government Fire 77401  
Departments, may be used to provide loans to private fire 77402  
departments. 77403

UNCLAIMED FUNDS PAYMENTS 77404

The foregoing appropriation item 800625, Unclaimed 77405  
Funds-Claims, shall be used to pay claims under section 169.08 of 77406  
the Revised Code. If it is determined that additional amounts are 77407  
necessary, the amounts are appropriated. 77408

UNCLAIMED FUNDS TRANSFERS 77409

Notwithstanding division (A) of section 169.05 of the Revised 77410  
Code, during the FY 2012-FY 2013 biennium, the Director of Budget 77411  
and Management shall request the Director of Commerce to transfer 77412  
to the General Revenue Fund up to \$215,000,000 of unclaimed funds 77413  
that have been reported by holders of unclaimed funds under 77414  
section 169.05 of the Revised Code, irrespective of the allocation 77415  
of the unclaimed funds under that section. The Director of 77416  
Commerce shall transfer the funds at the times requested by the 77417  
Director of Budget and Management. 77418

FIRE DEPARTMENT GRANTS 77419

Of the foregoing appropriation item 800639, Fire Department 77420  
Grants, up to \$1,647,140 in each fiscal year shall be used to make 77421  
annual grants to the following eligible recipients: volunteer fire 77422  
departments, fire departments that serve one or more small 77423  
municipalities or small townships, joint fire districts comprised 77424  
of fire departments that primarily serve small municipalities or 77425

small townships, local units of government responsible for such 77426  
fire departments, and local units of government responsible for 77427  
the provision of fire protection services for small municipalities 77428  
or small townships. For the purposes of these grants, a private 77429  
fire company, as that phrase is defined in section 9.60 of the 77430  
Revised Code, that is providing fire protection services under a 77431  
contract to a political subdivision of the state, is an additional 77432  
eligible recipient for a training grant. 77433

Eligible recipients that consist of small municipalities or 77434  
small townships that all intend to contract with the same fire 77435  
department or private fire company for fire protection services 77436  
may jointly apply and be considered for a grant. If a joint 77437  
applicant is awarded a grant, the State Fire Marshal shall, if 77438  
feasible, proportionately award the grant and any equipment 77439  
purchased with grant funds to each of the joint applicants based 77440  
upon each applicant's contribution to and demonstrated need for 77441  
fire protection services. 77442

If the grant awarded to joint applicants is an equipment 77443  
grant and the equipment to be purchased cannot be readily 77444  
distributed or possessed by multiple recipients, each of the joint 77445  
applicants shall be awarded by the State Fire Marshal an ownership 77446  
interest in the equipment so purchased in proportion to each 77447  
applicant's contribution to and demonstrated need for fire 77448  
protection services. The joint applicants shall then mutually 77449  
agree on how the equipment is to be maintained, operated, stored, 77450  
or disposed of. If, for any reason, the joint applicants cannot 77451  
agree as to how jointly owned equipment is to be maintained, 77452  
operated, stored, or disposed of or any of the joint applicants no 77453  
longer maintain a contract with the same fire protection service 77454  
provider as the other applicants, then the joint applicants shall, 77455  
with the assistance of the State Fire Marshal, mutually agree as 77456  
to how the jointly owned equipment is to be maintained, operated, 77457

stored, disposed of, or owned. If the joint applicants cannot 77458  
agree how the grant equipment is to be maintained, operated, 77459  
stored, disposed of, or owned, the State Fire Marshal may, in its 77460  
discretion, require all of the equipment acquired by the joint 77461  
applicants with grant funds to be returned to the State Fire 77462  
Marshal. The State Fire Marshal may then award the returned 77463  
equipment to any eligible recipients. 77464

The grants shall be used by recipients to purchase 77465  
firefighting or rescue equipment or gear or similar items, to 77466  
provide full or partial reimbursement for the documented costs of 77467  
firefighter training, or, at the discretion of the State Fire 77468  
Marshal, to cover fire department costs for providing fire 77469  
protection services in that grant recipient's jurisdiction. 77470

Grant awards for firefighting or rescue equipment or gear or 77471  
for fire department costs of providing fire protection services 77472  
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 77473  
fiscal year if an eligible entity serves a jurisdiction in which 77474  
the Governor declared a natural disaster during the preceding or 77475  
current fiscal year in which the grant was awarded. In addition to 77476  
any grant funds awarded for rescue equipment or gear, or for fire 77477  
department costs associated with the provision of fire protection 77478  
services, an eligible entity may receive a grant for up to \$15,000 77479  
per fiscal year for full or partial reimbursement of the 77480  
documented costs of firefighter training. For each fiscal year, 77481  
the State Fire Marshal shall determine the total amounts to be 77482  
allocated for each eligible purpose. 77483

The grant program shall be administered by the State Fire 77484  
Marshal in accordance with rules the State Fire Marshal adopts as 77485  
part of the state fire code adopted pursuant to section 3737.82 of 77486  
the Revised Code that are necessary for the administration and 77487  
operation of the grant program. The rules may further define the 77488  
entities eligible to receive grants and establish criteria for the 77489

awarding and expenditure of grant funds, including methods the 77490  
State Fire Marshal may use to verify the proper use of grant funds 77491  
or to obtain reimbursement for or the return of equipment for 77492  
improperly used grant funds. Any amounts in appropriation item 77493  
800639, Fire Department Grants, in excess of the amount allocated 77494  
for these grants may be used for the administration of the grant 77495  
program. 77496

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR 77497  
EDUCATION AND ENFORCEMENT EXPENSE FUND 77498

The Director of Budget and Management, upon the request of 77499  
the Director of Commerce, shall transfer up to \$485,000 in cash in 77500  
each fiscal year from the Division of Securities Fund (Fund 5500) 77501  
to the Division of Securities Investor Education and Enforcement 77502  
Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised 77503  
Code. 77504

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND 77505

The Director of Budget and Management, upon the request of 77506  
the Director of Commerce, shall transfer up to \$340,000 in cash in 77507  
each fiscal year from the Division of Administration Fund (Fund 77508  
1630) to the Video Service Authorization Fund (Fund 5X60). 77509

INCREASED APPROPRIATION - MERCHANDISING 77510

The foregoing appropriation item 800601, Merchandising, shall 77511  
be used under section 4301.12 of the Revised Code. If it is 77512  
determined that additional expenditures are necessary, the amounts 77513  
are hereby appropriated. 77514

DEVELOPMENT ASSISTANCE DEBT SERVICE 77515

The foregoing appropriation item 800633, Development 77516  
Assistance Debt Service, shall be used to pay debt service and 77517  
related financing costs at the times they are required to be made 77518  
during the period from July 1, 2011, to June 30, 2012, for bond 77519

service charges on obligations issued under Chapter 166. of the 77520  
Revised Code. If it is determined that additional appropriations 77521  
are necessary for this purpose, such amounts are appropriated, 77522  
subject to the limitations set forth in section 166.11 of the 77523  
Revised Code. An appropriation for this purpose is not required, 77524  
but is made in this form and in ~~this act~~ Am. Sub. H.B. 153 of the 77525  
129th General Assembly for record purposes only. 77526

REVITALIZATION DEBT SERVICE 77527

The foregoing appropriation item 800636, Revitalization Debt 77528  
Service, shall be used to pay debt service and related financing 77529  
costs at the times they are required to be made pursuant to 77530  
sections 151.01 and 151.40 of the Revised Code during the period 77531  
from July 1, 2011, to June 30, 2012. If it is determined that 77532  
additional appropriations are necessary for this purpose, such 77533  
amounts are hereby appropriated. The General Assembly acknowledges 77534  
the priority of the pledge of a portion of receipts from that 77535  
source to obligations issued and to be issued under Chapter 166. 77536  
of the Revised Code. 77537

LIQUOR CONTROL FUND TRANSFER 77538

On January 1, 2012, or as soon as possible thereafter, the 77539  
Director of Budget and Management may transfer up to \$10,600,000 77540  
in cash from the General Revenue Fund to the Liquor Control Fund 77541  
(Fund 7043) for the liquor permitting and compliance functions of 77542  
the Division of Liquor Control in the Department of Commerce and 77543  
for the operations of the Liquor Control Commission and the 77544  
Department of Public Safety pursuant to Chapter 4301. of the 77545  
Revised Code. 77546

On July 1, 2012, or as soon as possible thereafter, the 77547  
Director of Budget and Management may transfer up to \$21,800,000 77548  
in cash from the General Revenue Fund to the Liquor Control Fund 77549  
(Fund 7043) for the liquor permitting and compliance functions of 77550

the Division of Liquor Control in the Department of Commerce and 77551  
for the operations of the Liquor Control Commission and the 77552  
Department of Public Safety pursuant to Chapter 4301. of the 77553  
Revised Code. 77554

On July 1, 2012, or as soon as possible thereafter, the 77555  
Director of Budget and Management shall transfer \$500,000 in cash 77556  
from the Liquor Control Fund (Fund 7043) to the State Liquor 77557  
Regulatory Fund (Fund 5LP0) created in section 4301.30 of the 77558  
Revised Code. 77559

ADMINISTRATIVE ASSESSMENTS 77560

Notwithstanding any other provision of law to the contrary, 77561  
the Division of Administration Fund (Fund 1630) is entitled to 77562  
receive assessments from all operating funds of the Department in 77563  
accordance with procedures prescribed by the Director of Commerce 77564  
and approved by the Director of Budget and Management. 77565

**Sec. 261.10.40. TRAVEL AND TOURISM** 77566

The foregoing appropriation item 195407, Travel and Tourism, 77567  
shall be used for marketing the state of Ohio as a tourism 77568  
destination and to support administrative expenses and contracts 77569  
necessary to market Ohio. 77570

~~STRATEGIC BUSINESS INVESTMENT DIVISION AND REGIONAL OFFICES~~ 77571  
DEVELOPMENT SERVICES 77572

The foregoing appropriation item 195415, ~~Strategic Business~~ 77573  
~~Investment Division and Regional Offices~~ Development Services, 77574  
shall be used for the operating expenses of the ~~Strategic Business~~ 77575  
~~Investment Services~~ Division and the regional economic development 77576  
offices and for grants for cooperative economic development 77577  
ventures. 77578

**Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION** 77579

The foregoing appropriation item 195426, Clean Ohio Implementation, shall be used to fund the costs of administering the Clean Ohio Revitalization program and other urban revitalization programs that may be implemented by the Department of Development Services Agency. 77580  
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CDBG OPERATING MATCH

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The foregoing appropriation item 195497, CDBG Operating Match, shall be used as matching funds for grants from the United States Department of Housing and Urban Development pursuant to the Housing and Community Development Act of 1974 and regulations and policy guidelines for the programs pursuant thereto. 77586  
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TECHNOLOGY PROGRAMS AND GRANTS

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The foregoing appropriation item 195532, Technology Programs and Grants, shall be used for the same purposes as funding previously appropriated for appropriation items 195401, Thomas Edison Program, and 195422, Technology Action. Of the foregoing appropriation item 195532, Technology Programs and Grants, up to \$547,341 in fiscal year 2013 shall be used for operating expenses incurred in administering the Ohio Third Frontier pursuant to sections 184.10 to 184.20 of the Revised Code; and up to \$13,000,000 in fiscal year 2013 shall be used for the Thomas Edison Program pursuant to sections 122.28 to 122.38 of the Revised Code, of which not more than ten per cent shall be used for operating expenses incurred in administering the program. 77592  
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BUSINESS ASSISTANCE

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The foregoing appropriation item 195533, Business Assistance, shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 as amended by Public Law No. 98-395, and regulations and policy guidelines for the programs pursuant thereto. This appropriation item also may be used to provide 77605  
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grants to local organizations to support economic development 77611  
activities that promote minority business development, small 77612  
business development, entrepreneurship, and exports of Ohio's 77613  
goods and services. 77614

APPALACHIA ASSISTANCE 77615

The foregoing appropriation item 195535, Appalachia 77616  
Assistance, may be used for the administrative costs of planning 77617  
and liaison activities for the Governor's Office of Appalachia, to 77618  
provide financial assistance to projects in Ohio's Appalachian 77619  
counties, to pay dues for the Appalachian Regional Commission, and 77620  
to match federal funds from the Appalachian Regional Commission. 77621

Of the foregoing appropriation item 195535, Appalachia 77622  
Assistance, up to \$440,000 in fiscal year 2013 shall be used to 77623  
support four local development districts. Of that amount, up to 77624  
\$135,000 shall be allocated to the Ohio Valley Regional 77625  
Development Commission, up to \$135,000 shall be allocated to the 77626  
Ohio Mid-Eastern Government Association, up to \$135,000 shall be 77627  
allocated to the Buckeye Hills-Hocking Valley Regional Development 77628  
District, and up to \$35,000 shall be allocated to the Eastgate 77629  
Regional Council of Governments. Local development districts 77630  
receiving funding under this section shall use the funds for the 77631  
implementation and administration of programs and duties under 77632  
section 107.21 of the Revised Code. 77633

**Sec. 261.20.40. SUPPORTIVE DEVELOPMENT SERVICES OPERATIONS** 77634

The Director of Development Services may assess ~~divisions~~ 77635  
offices of the ~~department~~ agency for the cost of central service 77636  
operations. An assessment shall contain the characteristics of 77637  
administrative ease and uniform application. A division's payments 77638  
shall be credited to the Supportive Services Fund (Fund 1350) 77639  
using an intrastate transfer voucher. 77640

~~ECONOMIC DEVELOPMENT CONTINGENCY~~ 77641

~~The foregoing appropriation item 195677, Economic Development Contingency, may be used to award funds directly to either (1) business entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In addition, the Director of Development may award funds for alternative purposes when appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director.~~ 77642  
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LEGACY PROJECTS 77651

The foregoing appropriation item 195633, Legacy Projects, shall be used to support existing grant commitments to companies incurred prior to fiscal year 2013. A portion of the appropriation item may also be used to support administrative expenses and other costs associated with these projects. 77652  
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~~DIRECT COST RECOVERY~~ DEVELOPMENT SERVICES REIMBURSABLE EXPENDITURES 77657  
77658

The foregoing appropriation item 195636, ~~Direct Cost Recovery Development Services Reimbursable~~ Expenditures, shall be used for reimbursable costs incurred by the agency. Revenues to the General Reimbursement Fund (Fund 6850) shall consist of moneys charged for administrative costs that are not central service costs. 77659  
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**Sec. 261.20.50.** WORKFORCE DEVELOPMENT INITIATIVES 77664

Any unexpended and unencumbered portion of the foregoing appropriation item 195643, Workforce Development Initiatives, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013. 77665  
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HEAP WEATHERIZATION 77669

Up to fifteen per cent of the federal funds deposited to the 77670

credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 77671  
may be expended from appropriation item 195614, HEAP 77672  
Weatherization, to provide home weatherization services in the 77673  
state as determined by the Director of Development Services. Any 77674  
transfers or increases in appropriation for the foregoing 77675  
appropriation items 195614, HEAP Weatherization, or 195611, Home 77676  
Energy Assistance Block Grant, shall be subject to approval by the 77677  
Controlling Board. 77678

**Sec. 261.20.60. BUSINESS ASSISTANCE PROGRAMS** 77679

The foregoing appropriation item 195649, Business Assistance 77680  
Programs, shall be used for administrative expenses associated 77681  
with the operation of tax credit programs, loan servicing, the 77682  
Ohio Film Office, and the Office of Strategic Business 77683  
Investments, and for payments to the JobsOhio corporation 77684  
established in Chapter 187. of the Revised Code for services 77685  
provided for the administration of the 166 Direct Loan Program, 77686  
Ohio Enterprise Bond Fund, Research and Development Loan Program, 77687  
and Innovation Ohio Loan Program. 77688

STATE SPECIAL PROJECTS 77689

The State Special Projects Fund (Fund 4F20), may be used for 77690  
the deposit of private-sector funds from utility companies and for 77691  
the deposit of other miscellaneous state funds. State moneys so 77692  
deposited ~~shall~~ may also be used to match federal housing grants 77693  
for the homeless ~~and to market economic development opportunities~~ 77694  
~~in the state~~. Private-sector moneys shall be deposited for use in 77695  
appropriation item 195699, Utility ~~Provided Funds~~ Community 77696  
Assistance, and shall be used to (1) pay the expenses of verifying 77697  
the income-eligibility of HEAP applicants, (2) leverage additional 77698  
federal funds, (3) fund special projects to assist ~~homeless~~ 77699  
~~individuals~~ income-eligible veterans and families with services 77700  
and energy assistance programs, (4) fund special projects to 77701

assist with the energy efficiency of households eligible to 77702  
participate in the Percentage of Income Payment Plan, and (5) 77703  
assist with training programs for agencies that administer 77704  
low-income customer assistance programs. 77705

**Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN** 77706

All repayments from the Minority Development Financing 77707  
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 77708  
Program shall be deposited in the State Treasury to the credit of 77709  
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 77710  
costs of administering the Minority Business Enterprise Loan Fund 77711  
may be paid from the Minority Business Enterprise Loan Fund (Fund 77712  
4W10). 77713

**MINORITY BUSINESS BONDING FUND** 77714

Notwithstanding Chapters 122., 169., and 175. of the Revised 77715  
Code, the Director of Development Services may, upon the 77716  
recommendation of the Minority Development Financing Advisory 77717  
Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal 77718  
year 2013 biennium of unclaimed funds administered by the Director 77719  
of Commerce and allocated to the Minority Business Bonding Program 77720  
under section 169.05 of the Revised Code. The transfer of any cash 77721  
by the Director of Budget and Management from the ~~Department of~~ 77722  
~~Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department 77723  
of Commerce to the ~~Department of Development's~~ Minority Business 77724  
Bonding Fund (Fund 4490) used by the Development Services Agency 77725  
shall occur, if requested by the Director of Development Services, 77726  
only if such funds are needed for payment of losses arising from 77727  
the Minority Business Bonding Program, and only after proceeds of 77728  
the initial transfer of \$2,700,000 by the Controlling Board to the 77729  
Minority Business Bonding Program has been used for that purpose. 77730  
Moneys transferred by the Director of Budget and Management from 77731  
the Department of Commerce for this purpose may be moneys in 77732

custodial funds held by the Treasurer of State. If expenditures 77733  
are required for payment of losses arising from the Minority 77734  
Business Bonding Program, such expenditures shall be made from 77735  
appropriation item 195623, Minority Business Bonding Contingency 77736  
in the Minority Business Bonding Fund, and such amounts are hereby 77737  
appropriated. 77738

**Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS** 77739

(A) On July 1, 2011, or as soon as possible thereafter, the 77740  
Director of Budget and Management shall transfer up to \$20,000,000 77741  
cash from the Economic Development Programs Fund (Fund 5JC0) used 77742  
by the Board of Regents to the Ohio Incumbent Workforce Job 77743  
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 77744  
Services Agency. 77745

On July 1, 2012, or as soon as possible thereafter, the 77746  
Director of Budget and Management shall transfer up to \$30,000,000 77747  
cash from the Economic Development Programs Fund (Fund 5JC0) used 77748  
by the Board of Regents to the Ohio Incumbent Workforce Job 77749  
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 77750  
Services Agency. 77751

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ 77752  
Incumbent Workforce Job Training Vouchers, up to \$20,000,000 in 77753  
fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall 77754  
be used to support the Ohio Incumbent Workforce Training Voucher 77755  
Program. The Director of Development Services and the Chief 77756  
Investment Officer of JobsOhio may enter into an agreement to 77757  
operate the program pursuant to the contract between the 77758  
~~Department of~~ Development Services Agency and JobsOhio under 77759  
section 187.04 of the Revised Code. The agreement may include a 77760  
provision for granting, loaning, or transferring funds from 77761  
appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training 77762  
Vouchers, to JobsOhio to provide training for incumbent workers. 77763

Any unexpended and unencumbered portion of the foregoing 77764  
appropriation item 195526, Incumbent Workforce Training Vouchers, 77765  
at the end of fiscal year 2012 is hereby reappropriated for the 77766  
same purpose in fiscal year 2013. 77767

(C) Regardless of any agreement between the Director and the 77768  
Chief Investment Officer under division (B) of this section, the 77769  
Ohio Incumbent Workforce Training Voucher Program shall conform to 77770  
guidelines for the operation of the program, including, but not 77771  
limited to, the following: 77772

(1) A requirement that a training voucher under the program 77773  
shall not exceed \$6,000 per worker per year; 77774

(2) A provision for an employer of an eligible employee to 77775  
apply for a voucher on behalf of the eligible employee; 77776

(3) A provision for an eligible employee to apply directly 77777  
for a training voucher with the pre-approval of the employee's 77778  
employer; and 77779

(4) A requirement that an employee participating in the 77780  
program, or the employee's employer, shall pay for not less than 77781  
thirty-three per cent of the training costs under the program. 77782

DEFENSE DEVELOPMENT ASSISTANCE 77783

On July 1 of each fiscal year, or as soon as possible 77784  
thereafter, the Director of Budget and Management shall transfer 77785  
\$5,000,000 in cash from the Economic Development Projects Fund 77786  
(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 77787  
Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ 77788  
Development Services Agency. The transferred funds are hereby 77789  
appropriated in appropriation item 195622, Defense Development 77790  
Assistance. 77791

The foregoing appropriation item 195622, Defense Development 77792  
Assistance, shall be used for economic development programs and 77793

the creation of new jobs to leverage and support mission gains at 77794  
Department of Defense facilities in Ohio by working with future 77795  
base realignment and closure activities and ongoing Department of 77796  
Defense efficiency initiatives, assisting efforts to secure 77797  
Department of Defense support contracts for Ohio companies, 77798  
assessing and supporting regional job training and workforce 77799  
development needs generated by the Department of Defense and the 77800  
Ohio aerospace industry, and for expanding job training and 77801  
economic development programs in human performance related 77802  
initiatives. These funds shall be matched by private industry 77803  
partners or the Department of Defense in an aggregate amount of 77804  
\$6,000,000 over the FY 2012-FY 2013 biennium. 77805

Any unexpended and unencumbered portion of the foregoing 77806  
appropriation item 195622, Defense Development Assistance, at the 77807  
end of fiscal year 2012 is hereby reappropriated for the same 77808  
purpose in fiscal year 2013. 77809

WORKFORCE DEVELOPMENT PROGRAMS 77810

The foregoing appropriation item 195655, Workforce 77811  
Development Programs, may be used for the Ohio Workforce Guarantee 77812  
Program to promote training through grants to businesses and, in 77813  
the case of a business consortium, to the consortium for training 77814  
and education providers for the reimbursement of eligible training 77815  
expenses. Not more than ten per cent of appropriation item 195655, 77816  
Workforce Development Programs, shall be used for administrative 77817  
expenses related to the Ohio Workforce Guarantee Program. 77818

**Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS** 77819

The foregoing appropriation item 195660, Advanced Energy Loan 77820  
Programs, shall be used to provide financial assistance to 77821  
customers for eligible advanced energy projects for residential, 77822  
commercial, and industrial business, local government, educational 77823  
institution, nonprofit, and agriculture customers, and to pay for 77824

the program's administrative costs as provided in sections 4928.61 77825  
to 4928.63 of the Revised Code and rules adopted by the Director 77826  
of Development Services. 77827

On July 1 of each fiscal year, or as soon as possible 77828  
thereafter, the Director of Budget and Management shall transfer 77829  
\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 77830  
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 77831

VOLUME CAP ADMINISTRATION 77832

The foregoing appropriation item 195654, Volume Cap 77833  
Administration, shall be used for expenses related to the 77834  
administration of the Volume Cap Program. Revenues received by the 77835  
Volume Cap Administration Fund (Fund 6170) shall consist of 77836  
application fees, forfeited deposits, and interest earned from the 77837  
custodial account held by the Treasurer of State. 77838

**Sec. 261.30.20.** INNOVATION OHIO LOAN FUND 77839

The foregoing appropriation item 195664, Innovation Ohio, 77840  
shall be used to provide for innovation Ohio purposes, including 77841  
loan guarantees and loans under Chapter 166. and particularly 77842  
sections 166.12 to 166.16 of the Revised Code. 77843

RESEARCH AND DEVELOPMENT 77844

The foregoing appropriation item 195665, Research and 77845  
Development, shall be used to provide for research and development 77846  
purposes, including loans, under Chapter 166. and particularly 77847  
sections 166.17 to 166.21 of the Revised Code. 77848

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 77849

Appropriation item 195698, Logistics and Distribution 77850  
Infrastructure, shall be used for eligible logistics and 77851  
distribution infrastructure projects as defined in section 166.01 77852  
of the Revised Code. Any unexpended and unencumbered portion of 77853  
the appropriation item at the end of fiscal year 2011 is hereby 77854

reappropriated for the same purpose in fiscal year 2012, and any 77855  
unexpended and unencumbered portion of the appropriation item at 77856  
the end of fiscal year 2012 is hereby reappropriated for the same 77857  
purpose in fiscal year 2013. 77858

After all encumbrances have been paid, the Director of Budget 77859  
and Management shall transfer the remaining cash balance in the 77860  
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 77861  
Facilities Establishment Fund (Fund 7037). 77862

FACILITIES ESTABLISHMENT ~~FUND~~ 77863

The foregoing appropriation item 195615, Facilities 77864  
Establishment (Fund 7037), shall be used for the purposes of the 77865  
Facilities Establishment Fund under Chapter 166. of the Revised 77866  
Code. 77867

Notwithstanding Chapter 166. of the Revised Code, an amount 77868  
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 77869  
transferred from the Facilities Establishment Fund (Fund 7037) to 77870  
the ~~Economic Development Financing Operating~~ Business Assistance 77871  
Fund (Fund 4510). The transfer is subject to Controlling Board 77872  
approval under division (B) of section 166.03 of the Revised Code. 77873

Notwithstanding Chapter 166. of the Revised Code, the 77874  
Director of Budget and Management may transfer an amount not to 77875  
exceed \$2,500,000 in cash in each fiscal year from the Facilities 77876  
Establishment Fund (Fund 7037) to the Minority Business Enterprise 77877  
Loan Fund (Fund 4W10). 77878

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 77879  
Director of Budget and Management shall transfer the unexpended 77880  
and unencumbered cash balance in the Urban Development Loans Fund 77881  
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 77882

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 77883  
Director of Budget and Management shall transfer the unexpended 77884  
and unencumbered cash balance in the Rural Industrial Park Loan 77885

|   |   |
|---|---|
| Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037).  | 77886   |
| CAPITAL ACCESS LOAN PROGRAM   | 77887   |
| The foregoing appropriation item 195628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed-asset financing.   | 77888<br>77889<br>77890<br>77891<br>77892<br>77893  |
| <b>Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES</b>  | 77894   |
| The foregoing appropriation item 195663, Clean Ohio <del>Operating Program</del> , shall be used by the <del>Department of</del> Development <u>Services Agency</u> in administering Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to sections 122.65 to 122.658 of the Revised Code.  | 77895<br>77896<br>77897<br>77898<br>77899   |
| <b>Sec. 261.30.40. THIRD FRONTIER OPERATING</b>   | 77900   |
| The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be used for operating expenses incurred by the <del>Department of</del> Development <u>Services Agency</u> in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014). | 77901<br>77902<br>77903<br>77904<br>77905<br>77906<br>77907<br>77908<br>77909<br>77910<br>77911 |
| <b>Sec. 261.30.60. JOB READY SITE <del>OPERATING</del> <u>PROGRAM</u></b>   | 77912   |
| The foregoing appropriation item 195688, Job Ready Site <del>Operating Program</del> , shall be used for operating expenses incurred  | 77913<br>77914  |

by the ~~Department of~~ Development Services Agency in administering 77915  
Job Ready Site Development Fund (Fund 7012) projects pursuant to 77916  
sections 122.085 to 122.0820 of the Revised Code. Operating 77917  
expenses include, but are not limited to, certain qualified 77918  
expenses of the District Public Works Integrating Committees, as 77919  
applicable, engineering review of submitted applications by the 77920  
State Architect or a third-party engineering firm, audit and 77921  
accountability activities, and costs associated with formal 77922  
certifications verifying that site infrastructure is in place and 77923  
is functional. 77924

**Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE** 77925

On July 1, 2011, or as soon as possible thereafter, the 77926  
Director of Budget and Management shall transfer any unexpended 77927  
and unencumbered portion of appropriation item 898604, Coal 77928  
Research and Development Fund, used by the Ohio Air Quality 77929  
Development Authority, to a new capital appropriation item in the 77930  
~~Department of~~ Development Services Agency, to be determined by the 77931  
Director. The Director also shall cancel all outstanding 77932  
encumbrances against appropriation item 898604, Coal Research and 77933  
Development Fund, and reestablish them against the foregoing new 77934  
capital appropriation item. The amounts of the transfer and the 77935  
reestablished encumbrances, plus \$2,283,264, are hereby 77936  
appropriated for fiscal year 2012 in the foregoing new 77937  
appropriation item and shall be used to provide funding for coal 77938  
research and development purposes. 77939

**Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND** 77940  
**COMMERCIALIZATION SUPPORT** 77941

The General Assembly and the Governor recognize the role that 77942  
the biomedical industry has in job creation, innovation, and 77943  
economic development throughout Ohio. It is the intent of the 77944

General Assembly, the Governor, the Director of Development 77945  
Services, and the Director of Budget and Management to work 77946  
together in continuing to provide comprehensive state support for 77947  
the biomedical industry. 77948

**Sec. 261.30.90. UNCLAIMED FUNDS TRANSFER** 77949

(A)(1) Notwithstanding division (A) of section 169.05 of the 77950  
Revised Code, upon the request of the Director of Budget and 77951  
Management, the Director of Commerce, before June 30, 2012, shall 77952  
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 77953  
amount not to exceed \$25,000,000 in cash of the unclaimed funds 77954  
that have been reported by the holders of unclaimed funds under 77955  
section 169.05 of the Revised Code, regardless of the allocation 77956  
of the unclaimed funds described under that section. 77957

Notwithstanding division (A) of section 169.05 of the Revised 77958  
Code, upon the request of the Director of Budget and Management, 77959  
the Director of Commerce, before June 30, 2013, shall transfer to 77960  
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 77961  
exceed ~~\$15,000,000~~ 18,600,000 in cash of the unclaimed funds that 77962  
have been reported by the holders of unclaimed funds under section 77963  
169.05 of the Revised Code, regardless of the allocation of the 77964  
unclaimed funds described under that section. 77965

~~(B)~~(2) Notwithstanding division (A) of section 169.05 of the 77966  
Revised Code, upon the request of the Director of Budget and 77967  
Management, the Director of Commerce, before June 30, 2012, shall 77968  
transfer to the State Special Projects Fund (Fund 4F20) an amount 77969  
not to exceed \$5,000,000 in cash of the unclaimed funds that have 77970  
been reported by the holders of unclaimed funds under section 77971  
169.05 of the Revised Code, regardless of the allocation of the 77972  
unclaimed funds described under that section. 77973

(B) ASSORTED TRANSFERS FOR RESTRUCTURING 77974

On July 1, 2012, or as soon as possible thereafter, the 77975  
Director of Budget and Management shall transfer the cash balance 77976  
in the Water and Sewer Fund (Fund 4440) to the General 77977  
Reimbursement Fund (Fund 6850). 77978

On July 1, 2012, or as soon as possible thereafter, the 77979  
Director of Budget and Management shall transfer the cash balance 77980  
in the Water and Sewer Administration Fund (Fund 6110) to the 77981  
General Reimbursement Fund (Fund 6850). 77982

On July 1, 2012, or as soon as possible thereafter, the 77983  
Director of Budget and Management shall transfer the cash balance 77984  
in the Tax Incentive Programs Operating Fund (Fund 4S00) to the 77985  
Business Assistance Fund (Fund 4510). 77986

On July 1, 2012, or as soon as possible thereafter, the 77987  
Director of Budget and Management shall transfer the cash balance 77988  
in the Brownfield Stormwater Loan Fund (Fund 5KD0) to the New 77989  
Market Tax Credit Program Fund (Fund 5JR0). 77990

**Sec. 261.40.10. WORKFORCE DEVELOPMENT** 77991

The Director of Development Services and the Director of Job 77992  
and Family Services may enter into one or more interagency 77993  
agreements between the two departments and take other actions the 77994  
directors consider appropriate to further integrate workforce 77995  
development into a larger economic development strategy, to 77996  
implement the recommendations of the Workforce Policy Board, and 77997  
to complete activities related to the transition of the 77998  
administration of employment programs identified by the board. 77999  
Subject to the approval of the Director of Budget and Management, 78000  
the ~~Department of Development~~ Services Agency and the Department 78001  
of Job and Family Services may expend moneys to support the 78002  
recommendations of the Workforce Policy Board in the area of 78003  
integration of employment functions as described in this paragraph 78004  
and to complete implementation and transition activities from the 78005

appropriations to those departments. 78006

**Sec. 263.10.** DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 78007

General Revenue Fund 78008

GRF 320321 Central \$ 4,422,794 \$ 4,422,794 78009

Administration

GRF 320412 Protective Services \$ 2,174,826 \$ 1,957,343 78010

GRF 320415 Lease-Rental Payments \$ 18,394,250 \$ ~~19,907,900~~ 78011

17,907,900

GRF 322407 Medicaid State Match \$ 218,034,162 \$ 214,902,506 78012

GRF 322420 Screening and Early \$ 0 \$ 300,000 78013

Intervention

GRF 322451 Family Support \$ 5,932,758 \$ 5,932,758 78014

Services

GRF 322501 County Boards \$ 40,906,365 \$ 44,449,280 78015

Subsidies

GRF 322503 Tax Equity \$ 14,000,000 \$ 14,000,000 78016

TOTAL GRF General Revenue Fund \$ 303,865,155 \$ ~~305,572,581~~ 78017

303,872,581

General Services Fund Group 78018

1520 323609 Developmental Center \$ 3,414,317 \$ 3,414,317 78019

and Residential

Operating Services

TOTAL GSF General Services Fund \$ 3,414,317 \$ 3,414,317 78020

Group

Federal Special Revenue Fund Group 78021

3A50 320613 DD Council \$ 3,341,572 \$ 3,341,572 78022

3250 322612 Community Social \$ 11,017,754 \$ 10,604,896 78023

Service Programs

3DZ0 322648 Enhanced Medicaid - \$ 10,000,000 \$ 0 78024

Federal

3G60 322639 Medicaid Waiver - \$ 866,566,007 \$ 985,566,007 78025

|   |        | Federal   |                  |   |       |
|---|--------|---|------------------|---|-------|
| 3M70  | 322650 | CAFS Medicaid   | \$ 29,349,502    | \$ <del>29,349,502</del><br><u>3,000,000</u>        | 78026 |
| 3A40  | 323605 | Developmental Center<br>and Residential<br>Facility Services and<br>Support | \$ 180,266,029   | \$ <del>179,384,881</del><br><u>174,000,000</u>     | 78027 |
| TOTAL FED Federal Special Revenue<br>Fund Group |        |   | \$ 1,100,540,864 | \$ <del>1,208,246,858</del><br><u>1,176,512,475</u> | 78028 |
| State Special Revenue Fund Group                |        |   |                  |   | 78029 |
| 5GE0  | 320606 | Operating and<br>Services   | \$ 7,406,609     | \$ 7,407,297  | 78030 |
| 2210  | 322620 | Supplement Service<br>Trust   | \$ 150,000       | \$ 150,000  | 78031 |
| 4K80  | 322604 | Medicaid Waiver -<br>State Match  | \$ 12,000,000    | \$ 12,000,000                                       | 78032 |
| 5CT0  | 322632 | Intensive Behavioral<br>Needs   | \$ 1,000,000     | \$ 1,000,000  | 78033 |
| 5DJ0  | 322625 | Targeted Case<br>Management Match   | \$ 21,000,000    | \$ 24,000,000                                       | 78034 |
| 5DJ0  | 322626 | Targeted Case<br>Management Services  | \$ 57,307,357    | \$ 66,000,000                                       | 78035 |
| 5DK0  | 322629 | Capital Replacement<br>Facilities   | \$ 750,000       | \$ 750,000  | 78036 |
| 5EV0  | 322627 | Program Fees  | \$ 685,000       | \$ 685,000  | 78037 |
| 5H00  | 322619 | Medicaid Repayment  | \$ 160,000       | \$ 160,000  | 78038 |
| 5JX0  | 322651 | Interagency Workgroup<br>- Autism   | \$ 45,000        | \$ 45,000   | 78039 |
| 5Z10  | 322624 | County Board Waiver<br>Match  | \$ 235,000,000   | \$ 290,000,000                                      | 78040 |
| 4890  | 323632 | Developmental Center<br>Direct Care Support                                 | \$ 16,497,170    | \$ 16,497,169                                       | 78041 |
| 5S20  | 590622 | Medicaid  | \$ 20,875,567    | \$ 21,727,540                                       | 78042 |

Administration &  
Oversight

|                                 |                  |   |       |
|---------------------------------|------------------|---|-------|
| TOTAL SSR State Special Revenue | \$ 372,876,703   | \$ 440,422,006                                      | 78043 |
| Fund Group                      |                  |   |       |
| TOTAL ALL BUDGET FUND GROUPS    | \$ 1,780,697,039 | \$ <del>1,957,655,762</del><br><u>1,924,221,379</u> | 78044 |

**Sec. 263.10.30. FAMILY SCREENING AND EARLY INTERVENTION** 78046

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. 78047  
78048  
78049

**FAMILY SUPPORT SERVICES SUBSIDY** 78050

(A) The foregoing appropriation item 322451, Family Support Services, may be used as follows in fiscal year 2012 and fiscal year 2013: 78051  
78052  
78053

(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. 78054  
78055  
78056  
78057  
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78059  
78060  
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(2) The appropriation item may be used to distribute funds to county boards for the purpose of addressing economic hardships and to promote efficiency of operations. In consultation with representatives of county boards, the Director shall determine the amount of funds to distribute for these purposes and the criteria for distributing the funds. 78062  
78063  
78064  
78065  
78066  
78067

(B) Each county board shall submit reports to the Department of Developmental Disabilities on the use of funds received under 78068  
78069

this section. The reports shall be submitted at the times and in 78070  
the manner specified in rules the Director shall adopt in 78071  
accordance with Chapter 119. of the Revised Code. 78072

**Sec. 263.10.90. TARGETED CASE MANAGEMENT SERVICES** 78073

County boards of developmental disabilities shall pay the 78074  
nonfederal portion of targeted case management costs to the 78075  
Department of Developmental Disabilities. 78076

The Directors of Developmental Disabilities and Job and 78077  
Family Services may enter into an interagency agreement under 78078  
which the Department of Developmental Disabilities shall transfer 78079  
cash from the Targeted Case Management Fund (Fund 5DJ0) to the 78080  
~~Medicaid Program Support~~ State Health Care/Medicaid Support and 78081  
Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and 78082  
Family Services in an amount equal to the nonfederal portion of 78083  
the cost of targeted case management services paid by county 78084  
boards, and the Department of Job and Family Services shall pay 78085  
the total cost of targeted case management claims. The transfer 78086  
shall be made using an intrastate transfer voucher. 78087

**Sec. 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER** 78088  
**PHARMACY PROGRAMS** 78089

The Director of Developmental Disabilities shall quarterly 78090  
transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the 78091  
~~Medicaid Program Support~~ State Health Care/Medicaid Support and 78092  
Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and 78093  
Family Services, in an amount equal to the nonfederal share of 78094  
Medicaid prescription drug claim costs for all developmental 78095  
centers paid by the Department of Job and Family Services. The 78096  
quarterly transfer shall be made using an intrastate transfer 78097  
voucher. 78098

**Sec. 263.20.70.** RATE INCREASE FOR WAIVER PROVIDERS SERVING 78099  
FORMER RESIDENTS OF DEVELOPMENTAL CENTERS OR RESIDENTS OF 78100  
CONVERTED FACILITIES 78101

~~Subject~~ (A) As used in this section, "converted facility" 78102  
means an intermediate care facility for the mentally retarded as 78103  
defined in section 5111.20 of the Revised Code, or former 78104  
intermediate care facility for the mentally retarded, that 78105  
converted some or all of its beds to providing home and 78106  
community-based services under the Individual Options Waiver 78107  
pursuant to section 5111.874 of the Revised Code. 78108

(B) Subject to approval by the Centers for Medicare and 78109  
Medicaid Services, the Department of Job and Family Services shall 78110  
increase the rate paid to a provider under the Individual Options 78111  
Waiver by fifty-two cents for each fifteen minutes of routine 78112  
homemaker/personal care provided to an individual for up to a year 78113  
if all of the following apply: 78114

~~(A)~~(1) The individual was a resident of a developmental 78115  
center or converted facility immediately prior to enrollment in 78116  
the waiver; 78117

~~(B)~~(2) The provider begins serving the individual on or after 78118  
July 1, 2011; 78119

~~(C)~~(3) The Director of Developmental Disabilities determines 78120  
that the increased rate is warranted by the individual's special 78121  
circumstances, including the individual's diagnosis, service 78122  
needs, or length of stay at the developmental center or converted 78123  
facility, and that serving the individual through the Individual 78124  
Options Waiver is fiscally prudent for the Medicaid program. 78125

**Sec. 267.10.** EDU DEPARTMENT OF EDUCATION 78126  
General Revenue Fund 78127

|                   |  |           |             |           |                        |       |
|-------------------|--|-----------|-------------|-----------|------------------------|-------|
| GRF 200100        | Personal Services  | \$        | 8,579,178   | \$        | <del>8,579,178</del> 0 | 78128 |
| GRF 200320        | Maintenance and<br>Equipment   | \$        | 2,830,407   | \$        | <del>2,830,407</del> 0 | 78129 |
| <u>GRF 200321</u> | <u>Operating Expenses</u>  | <u>\$</u> | <u>0</u>    | <u>\$</u> | <u>13,142,780</u>      | 78130 |
| GRF 200408        | Early Childhood<br>Education   | \$        | 23,268,341  | \$        | 23,268,341             | 78131 |
| GRF 200416        | Career-Technical<br>Education Match  | \$        | 2,233,195   | \$        | <del>2,233,195</del> 0 | 78132 |
| GRF 200420        | <del>Computer/Application/<br/>Network</del> <u>Information<br/>Technology Development<br/>and Support</u> | \$        | 4,241,296   | \$        | 4,241,296              | 78133 |
| GRF 200421        | Alternative Education<br>Programs  | \$        | 7,403,998   | \$        | 7,403,998              | 78134 |
| GRF 200422        | School Management<br>Assistance  | \$        | 2,842,812   | \$        | 3,000,000              | 78135 |
| GRF 200424        | Policy Analysis  | \$        | 328,558     | \$        | 328,558                | 78136 |
| GRF 200425        | Tech Prep Consortia<br>Support   | \$        | 260,542     | \$        | 260,542                | 78137 |
| GRF 200426        | Ohio Educational<br>Computer Network   | \$        | 17,974,489  | \$        | 17,974,489             | 78138 |
| GRF 200427        | Academic Standards   | \$        | 4,346,060   | \$        | 3,700,000              | 78139 |
| GRF 200437        | Student Assessment   | \$        | 55,002,167  | \$        | 55,002,167             | 78140 |
| GRF 200439        | Accountability/Report<br>Cards   | \$        | 3,579,279   | \$        | 3,579,279              | 78141 |
| GRF 200442        | Child Care Licensing   | \$        | 827,140     | \$        | 827,140                | 78142 |
| GRF 200446        | Education Management<br>Information System   | \$        | 6,833,070   | \$        | 6,833,070              | 78143 |
| GRF 200447        | GED Testing  | \$        | 879,551     | \$        | 879,551                | 78144 |
| GRF 200448        | Educator Preparation   | \$        | 786,737     | \$        | 786,737                | 78145 |
| GRF 200455        | Community Schools and<br>Choice Programs   | \$        | 2,200,000   | \$        | 2,200,000              | 78146 |
| GRF 200502        | Pupil Transportation   | \$        | 438,248,936 | \$        | 442,113,527            | 78147 |

|                                |                                 |    |               |    |                          |       |
|--------------------------------|---------------------------------|----|---------------|----|--------------------------|-------|
| GRF 200505                     | School Lunch Match              | \$ | 9,100,000     | \$ | 9,100,000                | 78148 |
| GRF 200511                     | Auxiliary Services              | \$ | 124,194,099   | \$ | 126,194,099              | 78149 |
| GRF 200532                     | Nonpublic                       | \$ | 56,164,384    | \$ | 57,006,850               | 78150 |
|                                | Administrative Cost             |    |               |    |                          |       |
|                                | Reimbursement                   |    |               |    |                          |       |
| GRF 200540                     | Special Education               | \$ | 135,820,668   | \$ | 135,820,668              | 78151 |
|                                | Enhancements                    |    |               |    |                          |       |
| GRF 200545                     | Career-Technical                | \$ | 8,802,699     | \$ | 8,802,699                | 78152 |
|                                | Education Enhancements          |    |               |    |                          |       |
| GRF 200550                     | Foundation Funding              | \$ | 5,536,347,861 | \$ | <del>5,610,290,686</del> | 78153 |
|                                |                                 |    |               |    | <u>5,612,562,311</u>     |       |
| GRF 200901                     | Property Tax                    | \$ | 1,086,500,000 | \$ | 1,095,000,000            | 78154 |
|                                | Allocation - Education          |    |               |    |                          |       |
| TOTAL GRF General Revenue Fund |                                 | \$ | 7,539,595,467 | \$ | <del>7,628,256,477</del> | 78155 |
|                                |                                 |    |               |    | <u>7,630,028,102</u>     |       |
| General Services Fund Group    |                                 |    |               |    |                          | 78156 |
| 1380 200606                    | <del>Computer</del>             | \$ | 7,600,090     | \$ | <del>7,600,090</del>     | 78157 |
|                                | <del>Services Operational</del> |    |               |    | <u>6,100,090</u>         |       |
|                                | <u>Information</u>              |    |               |    |                          |       |
|                                | <u>Technology</u>               |    |               |    |                          |       |
|                                | <u>Development and</u>          |    |               |    |                          |       |
|                                | Support                         |    |               |    |                          |       |
| 4520 200638                    | <del>Miscellaneous</del>        | \$ | 300,000       | \$ | 300,000                  | 78158 |
|                                | <del>Educational Services</del> |    |               |    |                          |       |
|                                | <u>Fees and Refunds</u>         |    |               |    |                          |       |
| 4L20 200681                    | Teacher Certification           | \$ | 8,147,756     | \$ | 8,147,756                | 78159 |
|                                | and Licensure                   |    |               |    |                          |       |
| 5960 200656                    | Ohio Career                     | \$ | 529,761       | \$ | 529,761                  | 78160 |
|                                | Information System              |    |               |    |                          |       |
| 5H30 200687                    | School District                 | \$ | 25,000,000    | \$ | 25,000,000               | 78161 |
|                                | Solvency Assistance             |    |               |    |                          |       |
| TOTAL GSF General Services     |                                 |    |               |    |                          | 78162 |
| Fund Group                     |                                 | \$ | 41,577,607    | \$ | <del>41,577,607</del>    | 78163 |

40,077,607

|                                    |        |   |               |               |  |       |
|------------------------------------|--------|---|---------------|---------------|--|-------|
| Federal Special Revenue Fund Group |        |   |               |               |  | 78164 |
| 3090                               | 200601 | Neglected and<br>Delinquent Education                           | \$ 2,168,642  | \$ 2,168,642  |  | 78165 |
| 3670                               | 200607 | School Food Services  | \$ 6,803,472  | \$ 6,959,906  |  | 78166 |
| 3690                               | 200616 | Career-Technical<br>Education Federal<br>Enhancement            | \$ 5,000,000  | \$ 5,000,000  |  | 78167 |
| 3700                               | 200624 | Education of<br>Exceptional Children                            | \$ 1,905,000  | \$ 0          |  | 78168 |
| 3780                               | 200660 | Learn and Serve   | \$ 619,211    | \$ 619,211    |  | 78169 |
| 3AF0                               | 200603 | Schools Medicaid<br>Administrative Claims                       | \$ 639,000    | \$ 639,000    |  | 78170 |
| 3AN0                               | 200671 | School Improvement<br>Grants                                    | \$ 20,400,000 | \$ 20,400,000 |  | 78171 |
| 3AX0                               | 200698 | Improving Health and<br>Educational Outcomes<br>of Young People | \$ 630,954    | \$ 630,954    |  | 78172 |
| 3BK0                               | 200628 | Longitudinal Data<br>Systems                                    | \$ 500,000    | \$ 250,000    |  | 78173 |
| 3C50                               | 200661 | Early Childhood<br>Education                                    | \$ 14,554,749 | \$ 14,554,749 |  | 78174 |
| 3CG0                               | 200646 | Teacher Incentive<br>Fund                                       | \$ 1,925,881  | \$ 0          |  | 78175 |
| 3D10                               | 200664 | Drug Free Schools   | \$ 1,500,000  | \$ 0          |  | 78176 |
| 3D20                               | 200667 | Math Science<br>Partnerships                                    | \$ 9,500,001  | \$ 9,500,001  |  | 78177 |
| 3DG0                               | 200630 | Federal Stimulus -<br>McKinney Vento Grants                     | \$ 330,512    | \$ 0          |  | 78178 |
| 3DJ0                               | 200699 | IDEA Part B - Federal<br>Stimulus                               | \$ 21,886,803 | \$ 0          |  | 78179 |
| 3DK0                               | 200642 | Title 1A - Federal<br>Stimulus                                  | \$ 18,633,673 | \$ 0          |  | 78180 |

|      |        |   |    |             |    |             |       |
|------|--------|---|----|-------------|----|-------------|-------|
| 3DL0 | 200650 | IDEA Preschool -<br>Federal Stimulus                | \$ | 670,000     | \$ | 0           | 78181 |
| 3DM0 | 200651 | Title IID Technology<br>- Federal Stimulus          | \$ | 1,195,100   | \$ | 0           | 78182 |
| 3DP0 | 200652 | Title I School<br>Improvement - Federal<br>Stimulus | \$ | 48,500,000  | \$ | 30,000,000  | 78183 |
| 3EC0 | 200653 | Teacher Incentive -<br>Federal Stimulus             | \$ | 7,500,000   | \$ | 7,500,000   | 78184 |
| 3EH0 | 200620 | Migrant Education                                   | \$ | 2,645,905   | \$ | 2,645,905   | 78185 |
| 3EJ0 | 200622 | Homeless Children<br>Education                      | \$ | 1,759,782   | \$ | 1,759,782   | 78186 |
| 3EN0 | 200655 | State Data Systems -<br>Federal Stimulus            | \$ | 2,500,000   | \$ | 2,500,000   | 78187 |
| 3ES0 | 200657 | General Supervisory<br>Enhancement Grant            | \$ | 500,000     | \$ | 500,000     | 78188 |
| 3ET0 | 200658 | Education Jobs Fund                                 | \$ | 300,000,000 | \$ | 50,000,000  | 78189 |
| 3FD0 | 200665 | Race to the Top                                     | \$ | 100,000,000 | \$ | 100,000,000 | 78190 |
| 3FE0 | 200669 | Striving Readers                                    | \$ | 180,000     | \$ | 100,000     | 78191 |
| 3H90 | 200605 | Head Start<br>Collaboration Project                 | \$ | 225,000     | \$ | 225,000     | 78192 |
| 3L60 | 200617 | Federal School Lunch                                | \$ | 327,516,539 | \$ | 337,323,792 | 78193 |
| 3L70 | 200618 | Federal School<br>Breakfast                         | \$ | 87,596,850  | \$ | 90,224,756  | 78194 |
| 3L80 | 200619 | Child/Adult Food<br>Programs                        | \$ | 100,850,833 | \$ | 103,876,359 | 78195 |
| 3L90 | 200621 | Career-Technical<br>Education Basic Grant           | \$ | 48,466,864  | \$ | 48,466,864  | 78196 |
| 3M00 | 200623 | ESEA Title 1A                                       | \$ | 530,010,000 | \$ | 530,010,000 | 78197 |
| 3M20 | 200680 | Individuals with<br>Disabilities<br>Education Act   | \$ | 443,170,050 | \$ | 443,170,050 | 78198 |
| 3S20 | 200641 | Education Technology                                | \$ | 9,487,397   | \$ | 9,487,397   | 78199 |

|                                  |        |   |    |               |    |  |       |
|----------------------------------|--------|---|----|---------------|----|--|-------|
| 3T40                             | 200613 | Public Charter<br>Schools                                       | \$ | 14,291,353    | \$ | 14,291,353                                       | 78200 |
| 3Y20                             | 200688 | 21st Century<br>Community Learning<br>Centers                   | \$ | 43,720,462    | \$ | 45,906,485                                       | 78201 |
| 3Y60                             | 200635 | Improving Teacher<br>Quality                                    | \$ | 101,900,000   | \$ | 101,900,000                                      | 78202 |
| 3Y70                             | 200689 | English Language<br>Acquisition                                 | \$ | 8,373,995     | \$ | 8,373,995  | 78203 |
| 3Y80                             | 200639 | Rural and Low Income<br>Technical Assistance                    | \$ | 1,500,000     | \$ | 1,500,000  | 78204 |
| 3Z20                             | 200690 | State Assessments   | \$ | 11,882,258    | \$ | 11,882,258                                       | 78205 |
| 3Z30                             | 200645 | Consolidated Federal<br>Grant Administration                    | \$ | 8,949,280     | \$ | <del>8,949,280</del><br><u>7,949,280</u>         | 78206 |
| TOTAL FED Federal Special        |        |   |    |               |    |  | 78207 |
| Revenue Fund Group               |        |   | \$ | 2,310,389,566 | \$ | <del>2,011,315,739</del><br><u>2,010,315,739</u> | 78208 |
| State Special Revenue Fund Group |        |   |    |               |    |  | 78209 |
| 4540                             | 200610 | <del>Guidance and</del> <u>GED</u><br>Testing                   | \$ | 1,050,000     | \$ | 1,050,000  | 78210 |
| 4550                             | 200608 | Commodity Foods   | \$ | 24,000,000    | \$ | 24,000,000                                       | 78211 |
| 4R70                             | 200695 | Indirect Operational<br>Support                                 | \$ | 6,500,000     | \$ | 6,600,000  | 78212 |
| 4V70                             | 200633 | Interagency<br><del>Operational</del> <u>Program</u><br>Support | \$ | 1,117,725     | \$ | <del>1,117,725</del><br><u>717,725</u>           | 78213 |
| 5980                             | 200659 | Auxiliary Services<br>Reimbursement                             | \$ | 1,328,910     | \$ | 1,328,910  | 78214 |
| 5BB0                             | 200696 | State Action for<br>Education Leadership                        | \$ | 231,300       | \$ | 0  | 78215 |
| 5BJ0                             | 200626 | Half-Mill Maintenance<br>Equalization                           | \$ | 17,300,000    | \$ | 18,000,000                                       | 78216 |
| 5U20                             | 200685 | National Education  | \$ | 300,000       | \$ | 300,000  | 78217 |

|                                      |        |                      |                  |                              |    |                             |
|--------------------------------------|--------|----------------------|------------------|------------------------------|----|-----------------------------|
|                                      |        | Statistics           |                  |                              |    |                             |
| 6200                                 | 200615 | Educational          | \$               | 3,000,000                    | \$ | 3,000,000 78218             |
|                                      |        | Improvement Grants   |                  |                              |    |                             |
| TOTAL SSR State Special Revenue      |        |                      |                  |                              |    | 78219                       |
| Fund Group                           |        |                      | \$               | 54,827,935                   | \$ | <del>55,396,635</del> 78220 |
|                                      |        |                      |                  |                              |    | <u>54,996,635</u>           |
| Lottery Profits Education Fund Group |        |                      |                  |                              |    | 78221                       |
| 7017                                 | 200612 | Foundation Funding   | \$               | 717,500,000                  | \$ | 680,500,000 78222           |
| TOTAL LPE Lottery Profits            |        |                      |                  |                              |    | 78223                       |
| Education Fund Group                 |        |                      | \$               | 717,500,000                  | \$ | 680,500,000 78224           |
| Revenue Distribution Fund Group      |        |                      |                  |                              |    | 78225                       |
| 7047                                 | 200909 | School District      | \$               | 722,000,000                  | \$ | 475,000,000 78226           |
|                                      |        | Property Tax         |                  |                              |    |                             |
|                                      |        | Replacement-Business |                  |                              |    |                             |
| 7053                                 | 200900 | School District      | \$               | 34,000,000                   | \$ | 30,000,000 78227            |
|                                      |        | Property Tax         |                  |                              |    |                             |
|                                      |        | Replacement-Utility  |                  |                              |    |                             |
| TOTAL RDF Revenue Distribution       |        |                      |                  |                              |    | 78228                       |
| Fund Group                           |        |                      | \$               | 756,000,000                  | \$ | 505,000,000 78229           |
| TOTAL ALL BUDGET FUND GROUPS         |        |                      |                  |                              |    | 78230                       |
|                                      |        |                      | \$11,419,890,575 | \$ <del>10,922,046,458</del> |    | <u>10,920,918,083</u>       |

**Sec. 267.10.10. OPERATING EXPENSES** 78232

The foregoing appropriation item 200321, Operating Expenses, 78233  
shall be used to support the same activities as are supported 78234  
prior to July 1, 2012, by appropriation items 200100, Personal 78235  
Services, and 200320, Maintenance and Equipment. A portion of this 78236  
appropriation item also shall be used by the Department of 78237  
Education to provide matching funds under 20 U.S.C. 2321, which 78238  
are provided by appropriation item 200416, Career-Technical 78239  
Education Match, prior to July 1, 2012. 78240

On July 1, 2012, or as soon as possible thereafter, the 78241

Director of Budget and Management shall cancel any existing 78242  
encumbrances against appropriation items 200100, Personal 78243  
Services, 200320, Maintenance and Equipment, and 200416, 78244  
Career-Technical Education Match, and reestablish them against 78245  
appropriation item 200321, Operating Expenses. The reestablished 78246  
encumbrance amounts are hereby appropriated. 78247

EARLY CHILDHOOD EDUCATION 78248

The Department of Education shall distribute the foregoing 78249  
appropriation item 200408, Early Childhood Education, to pay the 78250  
costs of early childhood education programs. 78251

(A) As used in this section: 78252

(1) "Provider" means a city, local, exempted village, or 78253  
joint vocational school district, or an educational service 78254  
center. 78255

(2) In the case of a city, local, or exempted village school 78256  
district, "new eligible provider" means a district that did not 78257  
receive state funding for Early Childhood Education in the 78258  
previous fiscal year or demonstrates a need for early childhood 78259  
programs as defined in division (D) of this section. 78260

(3) "Eligible child" means a child who is at least three 78261  
years of age as of the district entry date for kindergarten, is 78262  
not of the age to be eligible for kindergarten, and whose family 78263  
earns not more than two hundred per cent of the federal poverty 78264  
guidelines as defined in division (A)(3) of section 5101.46 of the 78265  
Revised Code. Children with an Individualized Education Program 78266  
and where the Early Childhood Education program is the least 78267  
restrictive environment may be enrolled on their third birthday. 78268

(B) In each fiscal year, up to two per cent of the total 78269  
appropriation may be used by the Department for program support 78270  
and technical assistance. The Department shall distribute the 78271  
remainder of the appropriation in each fiscal year to serve 78272

eligible children. 78273

(C) The Department shall provide an annual report to the 78274  
Governor, the Speaker of the House of Representatives, and the 78275  
President of the Senate and post the report to the Department's 78276  
web site, regarding early childhood education programs operated 78277  
under this section and the early learning program guidelines. 78278

(D) After setting aside the amounts to make payments due from 78279  
the previous fiscal year, in fiscal year 2012, the Department 78280  
shall distribute funds first to recipients of funds for early 78281  
childhood education programs under Section 265.10.20 of Am. Sub. 78282  
H.B. 1 of the 128th General Assembly in the previous fiscal year 78283  
and the balance to new eligible providers of early childhood 78284  
education programs under this section or to existing providers to 78285  
serve more eligible children or for purposes of program expansion, 78286  
improvement, or special projects to promote quality and 78287  
innovation. 78288

After setting aside the amounts to make payments due from the 78289  
previous fiscal year, in fiscal year 2013, the Department shall 78290  
distribute funds first to providers of early childhood education 78291  
programs under this section in the previous fiscal year and the 78292  
balance to new eligible providers or to existing providers to 78293  
serve more eligible children or for purposes of program expansion, 78294  
improvement, or special projects to promote quality and 78295  
innovation. 78296

Awards under this section shall be distributed on a per-pupil 78297  
basis, and in accordance with division (H) of this section. The 78298  
Department may adjust the per-pupil amount so that the per-pupil 78299  
amount multiplied by the number of eligible children enrolled and 78300  
receiving services on the first day of December or the business 78301  
day closest to that date equals the amount allocated under this 78302  
section. 78303

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (J) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines. The approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines, meet a quality rating level in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code as prescribed by the Department, or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early

childhood education program. The Department may withhold funding 78336  
pending corrective action. If an early childhood education program 78337  
fails to satisfactorily complete a corrective action plan, the 78338  
Department may deny expansion funding to the program or withdraw 78339  
all or part of the funding to the program and establish a new 78340  
eligible provider through a selection process established by the 78341  
Department. 78342

(G) Each early childhood education program shall do all of 78343  
the following: 78344

(1) Meet teacher qualification requirements prescribed by 78345  
section 3301.311 of the Revised Code; 78346

(2) Align curriculum to the early learning content standards 78347  
developed by the Department; 78348

(3) Meet any child or program assessment requirements 78349  
prescribed by the Department; 78350

(4) Require teachers, except teachers enrolled and working to 78351  
obtain a degree pursuant to section 3301.311 of the Revised Code, 78352  
to attend a minimum of twenty hours every two years of 78353  
professional development as prescribed by the Department; 78354

(5) Document and report child progress as prescribed by the 78355  
Department; 78356

(6) Meet and report compliance with the early learning 78357  
program guidelines as prescribed by the Department; 78358

(7) Participate in the tiered quality rating and improvement 78359  
system developed under section 5104.30 of the Revised Code. 78360  
Effective July 1, 2016, all programs shall be rated through the 78361  
system. 78362

(H) Per-pupil funding for programs subject to this section 78363  
shall be sufficient to provide eligible children with services for 78364  
a standard early childhood schedule which shall be defined in this 78365

section as a minimum of twelve and one-half hours per school week 78366  
as defined in section 3313.62 of the Revised Code for the minimum 78367  
school year as defined in sections 3313.48, 3313.481, and 3313.482 78368  
of the Revised Code. Nothing in this section shall be construed to 78369  
prohibit program providers from utilizing other funds to serve 78370  
eligible children in programs that exceed the twelve and one-half 78371  
hours per week or that exceed the minimum school year. For any 78372  
provider for which a standard early childhood education schedule 78373  
creates a hardship or for which the provider shows evidence that 78374  
the provider is working in collaboration with a preschool special 78375  
education program, the provider may submit a waiver to the 78376  
Department requesting an alternate schedule. If the Department 78377  
approves a waiver for an alternate schedule that provides services 78378  
for less time than the standard early childhood education 78379  
schedule, the Department may reduce the provider's annual 78380  
allocation proportionately. Under no circumstances shall an annual 78381  
allocation be increased because of the approval of an alternate 78382  
schedule. 78383

(I) Each provider shall develop a sliding fee scale based on 78384  
family incomes and shall charge families who earn more than two 78385  
hundred per cent of the federal poverty guidelines, as defined in 78386  
division (A)(3) of section 5101.46 of the Revised Code, for the 78387  
early childhood education program. 78388

The Department shall conduct an annual survey of each 78389  
provider to determine whether the provider charges families 78390  
tuition or fees, the amount families are charged relative to 78391  
family income levels, and the number of families and students 78392  
charged tuition and fees for the early childhood program. 78393

(J) If an early childhood education program voluntarily 78394  
waives its right for funding, or has its funding eliminated for 78395  
not meeting financial standards or the early learning program 78396  
guidelines, the provider shall transfer control of title to 78397

property, equipment, and remaining supplies obtained through the 78398  
program to providers designated by the Department and return any 78399  
unexpended funds to the Department along with any reports 78400  
prescribed by the Department. The funding made available from a 78401  
program that waives its right for funding or has its funding 78402  
eliminated or reduced may be used by the Department for new grant 78403  
awards or expansion grants. The Department may award new grants or 78404  
expansion grants to eligible providers who apply. The eligible 78405  
providers who apply must do so in accordance with the selection 78406  
process established by the Department. 78407

(K) As used in this section, "early learning program 78408  
guidelines" means the guidelines established by the Department 78409  
pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 78410  
66 of the 126th General Assembly. 78411

(L) Eligible expenditures for the Early Childhood Education 78412  
program shall be claimed each fiscal year to help meet the state's 78413  
TANF maintenance of effort requirement. The Superintendent of 78414  
Public Instruction and the Director of Job and Family Services 78415  
shall enter into an interagency agreement to carry out the 78416  
requirements under this division, which shall include developing 78417  
reporting guidelines for these expenditures. 78418

**Sec. 267.10.20. CAREER-TECHNICAL EDUCATION MATCH** 78419

~~The~~ For fiscal year 2012, the foregoing appropriation item 78420  
200416, Career-Technical Education Match, shall be used by the 78421  
Department of Education to provide ~~vocational administration~~ 78422  
matching funds under 20 U.S.C. ~~2311~~ 2321. 78423

~~The Director of Budget and Management shall transfer any~~ 78424  
~~remaining appropriation from appropriation item 200416,~~ 78425  
~~Career Technical Education Match, to appropriation item 200426,~~ 78426  
~~Ohio Educational Computer Network, to support the Ohio Educational~~ 78427  
~~Computer Network.~~ 78428

COMPUTER/APPLICATION/NETWORK INFORMATION TECHNOLOGY 78429  
DEVELOPMENT AND SUPPORT 78430

The foregoing appropriation item 200420, 78431  
Computer/Application/Network Information Technology Development 78432  
and Support, shall be used to support the development and 78433  
implementation of information technology solutions designed to 78434  
improve the performance and services of the Department of 78435  
Education. Funds may be used for personnel, maintenance, and 78436  
equipment costs related to the development and implementation of 78437  
these technical system projects. Implementation of these systems 78438  
shall allow the Department to provide greater levels of assistance 78439  
to school districts and to provide more timely information to the 78440  
public, including school districts, administrators, and 78441  
legislators. Funds may also be used to support data-driven 78442  
decision-making and differentiated instruction, as well as to 78443  
communicate academic content standards and curriculum models to 78444  
schools through web-based applications. 78445

**Sec. 267.10.40. SCHOOL MANAGEMENT ASSISTANCE** 78446

Of the foregoing appropriation item 200422, School Management 78447  
Assistance, \$1,000,000 in each fiscal year ~~2012 and \$1,300,000 in~~ 78448  
~~fiscal year 2013~~ shall be used by the Auditor of State in 78449  
consultation with the Department of Education for expenses 78450  
incurred in the Auditor of State's role relating to fiscal 78451  
caution, fiscal watch, and fiscal emergency activities as defined 78452  
in Chapter 3316. of the Revised Code and may also be used by the 78453  
Auditor of State to conduct performance audits of other school 78454  
districts with priority given to districts in fiscal distress. 78455  
Districts in fiscal distress shall be determined by the Auditor of 78456  
State and shall include districts that the Auditor of State, in 78457  
consultation with the Department of Education, determines are 78458  
employing fiscal practices or experiencing budgetary conditions 78459

that could produce a state of fiscal watch or fiscal emergency. 78460

The remainder of appropriation item 200422, School Management 78461  
Assistance, shall be used by the Department of Education to 78462  
provide fiscal technical assistance and inservice education for 78463  
school district management personnel and to administer, monitor, 78464  
and implement the fiscal caution, fiscal watch, and fiscal 78465  
emergency provisions under Chapter 3316. of the Revised Code. 78466

COMMUNITY SCHOOL AND CHOICE PROGRAMS 78467

An amount equal to the unexpended, unencumbered balances of 78468  
the GRF appropriations for the Department of Education at the end 78469  
of fiscal year 2012, but not to exceed \$600,000, is hereby 78470  
reappropriated to appropriation item 200455, Community Schools and 78471  
Choice Programs, for fiscal year 2013 for the Department of 78472  
Education to provide STEM schools with matching funds for industry 78473  
workforce development initiatives. 78474

If the unexpended, unencumbered balances reappropriated above 78475  
are less than \$600,000, the Superintendent of Public Instruction 78476  
shall identify outstanding GRF encumbrances of the Department for 78477  
fiscal year 2012 and prior fiscal years that are no longer needed 78478  
to support the obligations of the Department. On July 1, 2012, or 78479  
as soon as possible thereafter, the Superintendent shall certify 78480  
the identified encumbrances to the Director of Budget and 78481  
Management. Upon receipt of the certification, the Director of 78482  
Budget and Management shall cancel identified encumbrances in an 78483  
amount up to the difference between \$600,000 and the amount 78484  
reappropriated above. The amount of canceled encumbrances is 78485  
hereby appropriated to appropriation item 200455, Community 78486  
Schools and Choice Programs, for fiscal year 2013 for the 78487  
Department of Education to provide STEM schools with matching 78488  
funds for industry workforce development initiatives. 78489

**Sec. 267.30.20. SPECIAL EDUCATION ENHANCEMENTS** 78490

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,206,875 in each fiscal year shall be used for home instruction for children with disabilities.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$45,282,959 in each fiscal year shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code.

Notwithstanding the distribution formulas under sections 3317.20 and 3317.201 of the Revised Code, funding for DD boards and institutions for fiscal year 2012 and fiscal year 2013 shall be determined by providing the per pupil amount received by each DD board and institution for the prior fiscal year for each student served in the current fiscal year.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$1,333,468 in each fiscal year shall be used for parent mentoring programs.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,537,824 in each fiscal year may be used for school psychology interns.

The remainder of appropriation item 200540, Special Education Enhancements, shall be distributed by the Department of Education to county boards of developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units under section 3317.052 of the Revised Code. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

The Department may reimburse county DD boards, educational service centers, and school districts for services provided by

instructional assistants, related services as defined in rule 78522  
3301-51-11 of the Administrative Code, physical therapy services 78523  
provided by a licensed physical therapist or physical therapist 78524  
assistant under the supervision of a licensed physical therapist 78525  
as required under Chapter 4755. of the Revised Code and Chapter 78526  
4755-27 of the Administrative Code and occupational therapy 78527  
services provided by a licensed occupational therapist or 78528  
occupational therapy assistant under the supervision of a licensed 78529  
occupational therapist as required under Chapter 4755. of the 78530  
Revised Code and Chapter 4755-7 of the Administrative Code. 78531  
Nothing in this section authorizes occupational therapy assistants 78532  
or physical therapist assistants to generate or manage their own 78533  
caseloads. 78534

The Department of Education shall require school districts, 78535  
educational service centers, and county DD boards serving 78536  
preschool children with disabilities to adhere to Ohio's Early 78537  
Learning Program Guidelines, participate in the tiered quality 78538  
rating and improvement system developed under section 5104.30 of 78539  
the Revised Code, and document child progress using research-based 78540  
indicators prescribed by the Department and report results 78541  
annually. The reporting dates and method shall be determined by 78542  
the Department. Effective July 1, 2018, all programs shall be 78543  
rated through the tiered quality rating and improvement system. 78544

**Sec. 267.30.40. FOUNDATION FUNDING** 78545

Of the foregoing appropriation item 200550, Foundation 78546  
Funding, up to \$675,000 in each fiscal year shall be used to 78547  
support the work of the College of Education and Human Ecology at 78548  
the Ohio State University in reviewing and assessing the alignment 78549  
of courses offered through the distance learning clearinghouse 78550  
established in sections 3333.81 to 3333.88 of the Revised Code 78551  
with the academic content standards adopted under division (A) of 78552

section 3301.079 of the Revised Code. 78553

Of the foregoing appropriation item 200550, Foundation 78554  
Funding, up to \$250,000 in each fiscal year may be used by the 78555  
Department to fund a shared services pilot project involving at 78556  
least two educational service centers. The pilot project shall 78557  
focus on the design, implementation, and evaluation of a shared 78558  
service delivery model. The educational service centers 78559  
participating in the pilot project shall submit a report not later 78560  
than September 1, 2013, to the Governor, members of the General 78561  
Assembly, and members of the State Board of Education, reviewing 78562  
the opportunities and challenges of implementing shared services 78563  
initiatives as well as any real or projected cost efficiencies 78564  
achieved through the pilot project. 78565

Of the foregoing appropriation item 200550, Foundation 78566  
Funding, up to \$50,000 shall be expended in each fiscal year for 78567  
court payments under section 2151.362 of the Revised Code. 78568

Of the foregoing appropriation item 200550, Foundation 78569  
Funding, up to \$8,100,000 in each fiscal year shall be used to 78570  
fund gifted education at educational service centers. 78571  
Notwithstanding division (D)(5) of section 3317.018 of the Revised 78572  
Code, the Department shall distribute the funding through the 78573  
unit-based funding methodology in place under division (L) of 78574  
section 3317.024, division (E) of section 3317.05, and divisions 78575  
(A), (B), and (C) of section 3317.053 of the Revised Code as they 78576  
existed prior to fiscal year 2010. 78577

Of the foregoing appropriation item 200550, Foundation 78578  
Funding, up to \$10,000,000 in each fiscal year shall be used to 78579  
provide additional state aid to school districts, joint vocational 78580  
school districts, and community schools for special education 78581  
students under division (C)(3) of section 3317.022 of the Revised 78582  
Code, except that the Controlling Board may increase these amounts 78583  
if presented with such a request from the Department of Education 78584

at the final meeting of the fiscal year; and up to \$2,000,000 in 78585  
each fiscal year shall be reserved for Youth Services tuition 78586  
payments under section 3317.024 of the Revised Code. 78587

Of the foregoing appropriation item 200550, Foundation 78588  
Funding, up to \$41,760,000 in fiscal year 2012 and up to 78589  
\$35,496,000 in fiscal year 2013 shall be reserved to fund the 78590  
state reimbursement of educational service centers under section 78591  
3317.11 of the Revised Code and the section of this act entitled 78592  
"EDUCATIONAL SERVICE CENTERS FUNDING"; and up to \$3,545,752 in 78593  
each fiscal year shall be distributed to educational service 78594  
centers for School Improvement Initiatives. Educational service 78595  
centers shall be required to support districts in the development 78596  
and implementation of their continuous improvement plans as 78597  
required in section 3302.04 of the Revised Code and to provide 78598  
technical assistance and support in accordance with Title I of the 78599  
"No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 78600  
6317. 78601

Of the foregoing appropriation item 200550, Foundation 78602  
Funding, up to \$700,000 in each fiscal year shall be used by the 78603  
Department of Education for a program to pay for educational 78604  
services for youth who have been assigned by a juvenile court or 78605  
other authorized agency to any of the facilities described in 78606  
division (A) of the section of this act entitled "PRIVATE 78607  
TREATMENT FACILITY PROJECT." 78608

Of the foregoing appropriation item 200550, Foundation 78609  
Funding, up to \$12,522,860 in ~~each~~ fiscal year 2012 and up to 78610  
\$14,794,485 in fiscal year 2013 shall be used to support ~~the~~ 78611  
~~Cleveland~~ school choice ~~program~~ programs. 78612

Of the portion of the funds distributed to the Cleveland 78613  
Municipal School District under this section, up to \$11,901,887 in 78614  
each fiscal year shall be used to operate the school choice 78615  
program in the Cleveland Municipal School District under sections 78616

3313.974 to 3313.979 of the Revised Code. Notwithstanding 78617  
divisions (B) and (C) of section 3313.978 and division (C) of 78618  
section 3313.979 of the Revised Code, up to \$1,000,000 in each 78619  
fiscal year of this amount shall be used by the Cleveland 78620  
Municipal School District to provide tutorial assistance as 78621  
provided in division (H) of section 3313.974 of the Revised Code. 78622  
The Cleveland Municipal School District shall report the use of 78623  
these funds in the district's three-year continuous improvement 78624  
plan as described in section 3302.04 of the Revised Code in a 78625  
manner approved by the Department of Education. 78626

Any sums, in addition to the amounts specifically 78627  
appropriated in appropriation item 200550, Foundation Funding, for 78628  
payments of the scholarships required under sections 3313.974 to 78629  
3313.979 of the Revised Code, which are determined to be necessary 78630  
by the Superintendent of Public Instruction, are hereby 78631  
appropriated. 78632

Of the foregoing appropriation item 200550, Foundation 78633  
Funding, an amount shall be available in each fiscal year to be 78634  
paid to joint vocational school districts in accordance with the 78635  
section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 78636  
DISTRICTS." 78637

Of the foregoing appropriation item 200550, Foundation 78638  
Funding, a portion in each fiscal year shall be paid to city, 78639  
exempted village, and local school districts in accordance with 78640  
the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT 78641  
FUNDING." 78642

Of the foregoing appropriation item 200550, Foundation 78643  
Funding, a portion in each fiscal year shall be paid to school 78644  
districts and community schools in accordance with the section of 78645  
this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS." 78646

The remainder of appropriation item 200550, Foundation 78647

Funding, shall be used to distribute the amounts calculated for 78648  
formula aid under Section 267.30.50 of this act. 78649

Appropriation items 200502, Pupil Transportation, 200540, 78650  
Special Education Enhancements, and 200550, Foundation Funding, 78651  
other than specific set-asides, are collectively used in each 78652  
fiscal year to pay state formula aid obligations for school 78653  
districts, community schools, STEM schools, and joint vocational 78654  
school districts under this act. The first priority of these 78655  
appropriation items, with the exception of specific set-asides, is 78656  
to fund state formula aid obligations. It may be necessary to 78657  
reallocate funds among these appropriation items or use excess 78658  
funds from other general revenue fund appropriation items in the 78659  
Department of Education's budget in each fiscal year, in order to 78660  
meet state formula aid obligations. If it is determined that it is 78661  
necessary to transfer funds among these appropriation items or to 78662  
transfer funds from other General Revenue Fund appropriations in 78663  
the Department of Education's budget to meet state formula aid 78664  
obligations, the Department of Education shall seek approval from 78665  
the Controlling Board to transfer funds as needed. 78666

**Sec. 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY** 78667

General Services Fund Group 78668

|      |        |                     |    |         |    |         |       |
|------|--------|---------------------|----|---------|----|---------|-------|
| 1990 | 715602 | Laboratory Services | \$ | 402,295 | \$ | 408,560 | 78669 |
|------|--------|---------------------|----|---------|----|---------|-------|

|      |        |                 |    |           |    |           |       |
|------|--------|-----------------|----|-----------|----|-----------|-------|
| 2190 | 715604 | Central Support | \$ | 8,594,348 | \$ | 8,555,680 | 78670 |
|------|--------|-----------------|----|-----------|----|-----------|-------|

Indirect

|      |        |                    |    |           |    |           |       |
|------|--------|--------------------|----|-----------|----|-----------|-------|
| 4A10 | 715640 | Operating Expenses | \$ | 2,304,267 | \$ | 2,093,039 | 78671 |
|------|--------|--------------------|----|-----------|----|-----------|-------|

|             |               |                       |           |          |           |               |       |
|-------------|---------------|-----------------------|-----------|----------|-----------|---------------|-------|
| <u>4D50</u> | <u>715618</u> | <u>Recycled State</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>50,000</u> | 78672 |
|-------------|---------------|-----------------------|-----------|----------|-----------|---------------|-------|

Materials

TOTAL GSF General Services 78673

|            |    |            |    |                       |       |
|------------|----|------------|----|-----------------------|-------|
| Fund Group | \$ | 11,300,910 | \$ | <del>11,057,279</del> | 78674 |
|            |    |            |    | <u>11,107,279</u>     |       |

Federal Special Revenue Fund Group 78675

|                                   |        |   |    |            |    |            |       |
|-----------------------------------|--------|---|----|------------|----|------------|-------|
| 3530                              | 715612 | Public Water Supply                         | \$ | 2,941,282  | \$ | 2,941,282  | 78676 |
| 3540                              | 715614 | Hazardous Waste<br>Management - Federal     | \$ | 4,193,000  | \$ | 4,193,000  | 78677 |
| 3570                              | 715619 | Air Pollution Control<br>- Federal          | \$ | 6,310,203  | \$ | 6,310,203  | 78678 |
| 3620                              | 715605 | Underground Injection<br>Control - Federal  | \$ | 111,874    | \$ | 111,874    | 78679 |
| 3BU0                              | 715684 | Water Quality<br>Protection                 | \$ | 8,100,000  | \$ | 6,785,000  | 78680 |
| 3CS0                              | 715688 | Federal NRD<br>Settlements                  | \$ | 100,000    | \$ | 100,000    | 78681 |
| 3F20                              | 715630 | Revolving Loan Fund -<br>Operating          | \$ | 907,543    | \$ | 907,543    | 78682 |
| 3F30                              | 715632 | Federally Supported<br>Cleanup and Response | \$ | 3,344,746  | \$ | 3,290,405  | 78683 |
| 3F50                              | 715641 | Nonpoint Source<br>Pollution Management     | \$ | 6,265,000  | \$ | 6,260,000  | 78684 |
| 3T30                              | 715669 | Drinking Water State<br>Revolving Fund      | \$ | 2,273,323  | \$ | 2,273,323  | 78685 |
| 3V70                              | 715606 | Agencywide Grants                           | \$ | 600,000    | \$ | 600,000    | 78686 |
| TOTAL FED Federal Special Revenue |        |   |    |            |    |            | 78687 |
| Fund Group                        |        |   | \$ | 35,146,971 | \$ | 33,772,630 | 78688 |
| State Special Revenue Fund Group  |        |   |    |            |    |            | 78689 |
| 4J00                              | 715638 | Underground Injection<br>Control            | \$ | 445,234    | \$ | 445,571    | 78690 |
| 4K20                              | 715648 | Clean Air - Non Title<br>V                  | \$ | 3,152,306  | \$ | 2,906,267  | 78691 |
| 4K30                              | 715649 | Solid Waste                                 | \$ | 16,742,551 | \$ | 16,414,654 | 78692 |
| 4K40                              | 715650 | Surface Water<br>Protection                 | \$ | 7,642,625  | \$ | 6,672,246  | 78693 |
| 4K40                              | 715686 | Environmental Lab<br>Service                | \$ | 2,096,007  | \$ | 2,096,007  | 78694 |
| 4K50                              | 715651 | Drinking Water                              | \$ | 7,410,118  | \$ | 7,405,428  | 78695 |

|             |               |                             |           |            |           |                        |
|-------------|---------------|-----------------------------|-----------|------------|-----------|------------------------|
|             |               | Protection                  |           |            |           |                        |
| 4P50        | 715654        | Cozart Landfill             | \$        | 100,000    | \$        | 100,000 78696          |
| 4R50        | 715656        | Scrap Tire Management       | \$        | 1,368,610  | \$        | 1,376,742 78697        |
| 4R90        | 715658        | Voluntary Action            | \$        | 999,503    | \$        | 997,425 78698          |
|             |               | Program                     |           |            |           |                        |
| 4T30        | 715659        | Clean Air - Title V         | \$        | 16,349,471 | \$        | 16,241,822 78699       |
|             |               | Permit Program              |           |            |           |                        |
| 4U70        | 715660        | Construction and            | \$        | 425,913    | \$        | 433,591 78700          |
|             |               | Demolition Debris           |           |            |           |                        |
| 5000        | 715608        | Immediate Removal           | \$        | 633,832    | \$        | 634,033 78701          |
|             |               | Special Account             |           |            |           |                        |
| 5030        | 715621        | Hazardous Waste             | \$        | 10,241,107 | \$        | 9,789,620 78702        |
|             |               | Facility Management         |           |            |           |                        |
| 5050        | 715623        | Hazardous Waste             | \$        | 12,511,234 | \$        | 12,331,272 78703       |
|             |               | Cleanup                     |           |            |           |                        |
| 5050        | 715674        | Clean Ohio                  | \$        | 108,104    | \$        | 108,104 78704          |
|             |               | Environmental Review        |           |            |           |                        |
| <u>5320</u> | <u>715646</u> | <u>Recycling and Litter</u> | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>4,911,575</u> 78705 |
|             |               | <u>Control</u>              |           |            |           |                        |
| 5410        | 715670        | Site Specific Cleanup       | \$        | 2,048,101  | \$        | 2,048,101 78706        |
| 5420        | 715671        | Risk Management             | \$        | 132,636    | \$        | 132,636 78707          |
|             |               | Reporting                   |           |            |           |                        |
| <u>5860</u> | <u>715637</u> | <u>Scrap Tire Market</u>    | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>1,497,645</u> 78708 |
|             |               | <u>Development</u>          |           |            |           |                        |
| 5920        | 715627        | Anti Tampering              | \$        | 2,285      | \$        | 2,285 78709            |
|             |               | Settlement                  |           |            |           |                        |
| 5BC0        | 715617        | Clean Ohio                  | \$        | 611,455    | \$        | 611,455 78710          |
| 5BC0        | 715622        | Local Air Pollution         | \$        | 2,297,980  | \$        | 2,297,980 78711        |
|             |               | Control                     |           |            |           |                        |
| 5BC0        | 715624        | Surface Water               | \$        | 8,970,181  | \$        | 9,114,974 78712        |
| 5BC0        | 715672        | Air Pollution Control       | \$        | 4,438,629  | \$        | 4,534,758 78713        |
| 5BC0        | 715673        | Drinking and Ground         | \$        | 4,317,527  | \$        | 4,323,521 78714        |
|             |               | Water                       |           |            |           |                        |

|       |        |   |    |             |    |  |       |
|-------|--------|---|----|-------------|----|--|-------|
| 5BC0  | 715675 | Hazardous Waste                                   | \$ | 95,266      | \$ | 95,266                                     | 78715 |
| 5BC0  | 715676 | Assistance and<br>Prevention                      | \$ | 640,179     | \$ | 645,069                                    | 78716 |
| 5BC0  | 715677 | Laboratory  | \$ | 939,717     | \$ | 958,586                                    | 78717 |
| 5BC0  | 715678 | Corrective Actions                                | \$ | 31,765      | \$ | 105,423                                    | 78718 |
| 5BC0  | 715687 | Areawide Planning<br>Agencies                     | \$ | 450,000     | \$ | 450,000                                    | 78719 |
| 5BC0  | 715692 | Administration                                    | \$ | 8,562,476   | \$ | 8,212,627                                  | 78720 |
| 5BT0  | 715679 | C&DD Groundwater<br>Monitoring                    | \$ | 203,800     | \$ | 203,800                                    | 78721 |
| 5BY0  | 715681 | Auto Emissions Test                               | \$ | 13,029,952  | \$ | <del>13,242,762</del><br><u>11,242,762</u> | 78722 |
| 5CD0  | 715682 | Clean Diesel School<br>Buses                      | \$ | 600,000     | \$ | 600,000                                    | 78723 |
| 5H40  | 715664 | Groundwater Support                               | \$ | 77,508      | \$ | 78,212                                     | 78724 |
| 5N20  | 715613 | Dredge and Fill                                   | \$ | 29,250      | \$ | 29,250                                     | 78725 |
| 5Y30  | 715685 | Surface Water<br>Improvement                      | \$ | 2,800,000   | \$ | 2,800,000                                  | 78726 |
| 6440  | 715631 | ER Radiological Safety                            | \$ | 279,838     | \$ | 279,966                                    | 78727 |
| 6600  | 715629 | Infectious Waste<br>Management                    | \$ | 91,573      | \$ | 88,764                                     | 78728 |
| 6760  | 715642 | Water Pollution<br>Control Loan<br>Administration | \$ | 4,317,376   | \$ | 4,321,605                                  | 78729 |
| 6780  | 715635 | Air Toxic Release                                 | \$ | 138,669     | \$ | 138,669                                    | 78730 |
| 6790  | 715636 | Emergency Planning                                | \$ | 2,623,192   | \$ | 2,623,252                                  | 78731 |
| 6960  | 715643 | Air Pollution Control<br>Administration           | \$ | 1,100,000   | \$ | 1,100,000                                  | 78732 |
| 6990  | 715644 | Water Pollution<br>Control Administration         | \$ | 220,000     | \$ | 220,000                                    | 78733 |
| 6A10  | 715645 | Environmental<br>Education                        | \$ | 1,488,260   | \$ | 1,488,718                                  | 78734 |
| TOTAL | SSR    | State Special Revenue                             | \$ | 140,764,230 | \$ | <del>138,700,461</del>                     | 78735 |

|  |    |             |    |                        |       |
|--|----|-------------|----|------------------------|-------|
| Fund Group   |    |             |    | <u>143,109,681</u>     |       |
| Clean Ohio Conservation Fund Group   |    |             |    |                        | 78736 |
| 5S10 715607 Clean Ohio -   | \$ | 284,083     | \$ | 284,124                | 78737 |
| Operating  |    |             |    |                        |       |
| TOTAL CLF Clean Ohio Conservation  | \$ | 284,083     | \$ | 284,124                | 78738 |
| Fund Group   |    |             |    |                        |       |
| TOTAL ALL BUDGET FUND GROUPS   | \$ | 187,496,194 | \$ | <del>183,814,494</del> | 78739 |
|  |    |             |    | <u>188,273,714</u>     |       |
| AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT                   |    |             |    |                        | 78740 |
| On July 1 of each fiscal year, or as soon as possible                          |    |             |    |                        | 78741 |
| thereafter, the Director of Budget and Management may transfer up              |    |             |    |                        | 78742 |
| to \$13,029,952 in cash in fiscal year 2012, and up to <del>\$13,242,762</del> |    |             |    |                        | 78743 |
| <u>11,242,762</u> in cash in fiscal year 2013 from the General Revenue         |    |             |    |                        | 78744 |
| Fund to the Auto Emissions Test Fund (Fund 5BY0) for the operation             |    |             |    |                        | 78745 |
| and oversight of the auto emissions testing program.                           |    |             |    |                        | 78746 |
| AREAWIDE PLANNING AGENCIES   |    |             |    |                        | 78747 |
| The Director of Environmental Protection Agency may award                      |    |             |    |                        | 78748 |
| grants from appropriation item 715687, Areawide Planning Agencies,             |    |             |    |                        | 78749 |
| to areawide planning agencies engaged in areawide water quality                |    |             |    |                        | 78750 |
| management and planning activities in accordance with Section 208              |    |             |    |                        | 78751 |
| of the "Federal Clean Water Act," 33 U.S.C. 1288.                              |    |             |    |                        | 78752 |
| CORRECTIVE CASH TRANSFERS  |    |             |    |                        | 78753 |
| On July 1, 2011, or as soon as possible thereafter, the                        |    |             |    |                        | 78754 |
| Director of Budget and Management shall transfer \$376,891.85 in               |    |             |    |                        | 78755 |
| cash that was mistakenly deposited in the Clean Air Non Title V                |    |             |    |                        | 78756 |
| Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30).             |    |             |    |                        | 78757 |
| On July 1, 2011, or as soon as possible thereafter, the                        |    |             |    |                        | 78758 |
| Director of Budget and Management shall transfer \$133,026.63 in               |    |             |    |                        | 78759 |
| cash that was mistakenly deposited in the Scrap Tire Management                |    |             |    |                        | 78760 |
| Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410).                |    |             |    |                        | 78761 |

|           |                                    |                               |    |            |                          |       |
|-----------|------------------------------------|-------------------------------|----|------------|--------------------------|-------|
|           | <b>Sec. 283.10. ETC ETECH OHIO</b> |                               |    |            | 78762                    |       |
|           | General Revenue Fund               |                               |    |            | 78763                    |       |
| GRF       | 935401                             | Statehouse News               | \$ | 215,561    | \$ 215,561               | 78764 |
|           |                                    | Bureau                        |    |            |                          |       |
| GRF       | 935402                             | Ohio Government               | \$ | 702,089    | \$ <del>702,089</del>    | 78765 |
|           |                                    | Telecommunications            |    |            | <u>1,002,089</u>         |       |
|           |                                    | Services                      |    |            |                          |       |
| GRF       | 935408                             | General Operations            | \$ | 1,251,789  | \$ 1,254,193             | 78766 |
| GRF       | 935409                             | Technology Operations         | \$ | 2,092,432  | \$ 2,091,823             | 78767 |
| GRF       | 935410                             | Content Development,          | \$ | 2,607,094  | \$ 2,607,094             | 78768 |
|           |                                    | Acquisition, and              |    |            |                          |       |
|           |                                    | Distribution                  |    |            |                          |       |
| GRF       | 935411                             | Technology                    | \$ | 4,251,185  | \$ 4,252,671             | 78769 |
|           |                                    | Integration and               |    |            |                          |       |
|           |                                    | Professional                  |    |            |                          |       |
|           |                                    | Development                   |    |            |                          |       |
| GRF       | 935412                             | Information                   | \$ | 829,340    | \$ 829,963               | 78770 |
|           |                                    | Technology                    |    |            |                          |       |
| TOTAL GRF | General Revenue Fund               |                               | \$ | 11,949,490 | \$ <del>11,953,394</del> | 78771 |
|           |                                    |                               |    |            | <u>12,253,394</u>        |       |
|           | General Services Fund Group        |                               |    |            |                          | 78772 |
| 4F30      | 935603                             | Affiliate Services            | \$ | 50,000     | \$ 50,000                | 78773 |
| 4T20      | 935605                             | Government                    | \$ | 25,000     | \$ 25,000                | 78774 |
|           |                                    | Television/Telecommunications |    |            |                          |       |
|           |                                    | Operating                     |    |            |                          |       |
| TOTAL GSF | General Services Fund              |                               | \$ | 75,000     | \$ 75,000                | 78775 |
|           | Group                              |                               |    |            |                          |       |
|           | State Special Revenue Fund Group   |                               |    |            |                          | 78776 |
| 4W90      | 935630                             | Telecommunity                 | \$ | 25,000     | \$ 25,000                | 78777 |
| 4X10      | 935634                             | Distance Learning             | \$ | 24,150     | \$ 24,150                | 78778 |
| 5D40      | 935640                             | Conference/Special            | \$ | 2,100,000  | \$ 2,100,000             | 78779 |

|                              |                       |                  |    |            |    |                             |
|------------------------------|-----------------------|------------------|----|------------|----|-----------------------------|
|                              | Purposes              |                  |    |            |    |                             |
| 5FK0                         | 935608                | Media Services   | \$ | 637,601    | \$ | 637,956 78780               |
| 5JU0                         | 935611                | Information      | \$ | 1,455,000  | \$ | 1,455,000 78781             |
|                              | Technology Services   |                  |    |            |    |                             |
| 5T30                         | 935607                | Gates Foundation | \$ | 200,000    | \$ | 171,112 78782               |
|                              | Grants                |                  |    |            |    |                             |
| TOTAL SSR                    | State Special Revenue |                  | \$ | 4,441,751  | \$ | 4,413,218 78783             |
| Fund Group                   |                       |                  |    |            |    |                             |
| TOTAL ALL BUDGET FUND GROUPS |                       |                  | \$ | 16,466,241 | \$ | <del>16,441,612</del> 78784 |
|                              |                       |                  |    |            |    | <u>16,741,612</u>           |

**Sec. 287.10. EXP OHIO EXPOSITIONS COMMISSION** 78786

|                                  |                       |                              |           |            |           |                             |
|----------------------------------|-----------------------|------------------------------|-----------|------------|-----------|-----------------------------|
| General Revenue Fund             |                       |                              |           |            |           | 78787                       |
| GRF                              | 723403                | Junior Fair Subsidy          | \$        | 250,000    | \$        | 250,000 78788               |
| <u>GRF</u>                       | <u>723501</u>         | <u>Building Construction</u> | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>1,000,000</u> 78789      |
| TOTAL GRF                        | General Revenue Fund  |                              | \$        | 250,000    | \$        | <del>250,000</del> 78790    |
|                                  |                       |                              |           |            |           | <u>1,250,000</u>            |
| State Special Revenue Fund Group |                       |                              |           |            |           | 78791                       |
| 4N20                             | 723602                | Ohio State Fair              | \$        | 400,000    | \$        | 400,000 78792               |
|                                  | Harness Racing        |                              |           |            |           |                             |
| 5060                             | 723601                | Operating Expenses           | \$        | 12,991,000 | \$        | 12,894,000 78793            |
| TOTAL SSR                        | State Special Revenue |                              |           |            |           | 78794                       |
| Fund Group                       |                       |                              |           |            |           |                             |
| TOTAL ALL BUDGET FUND GROUPS     |                       |                              | \$        | 13,641,000 | \$        | <del>13,544,000</del> 78796 |
|                                  |                       |                              |           |            |           | <u>14,544,000</u>           |

STATE FAIR RESERVE 78797

The General Manager of the Expositions Commission may submit 78798  
a request to the Controlling Board to use available amounts in the 78799  
State Fair Reserve Fund (Fund 6400) if the following conditions 78800  
apply: 78801

(A) Admissions receipts for the 2011 or 2012 Ohio State Fair 78802  
are less than \$1,982,000 because of inclement weather or 78803

extraordinary circumstances; 78804

(B) The Ohio Expositions Commission declares a state of 78805  
fiscal exigency; and 78806

(C) The request contains a plan describing how the 78807  
Expositions Commission will eliminate the cash shortage causing 78808  
the request. 78809

The amount approved by the Controlling Board is hereby 78810  
appropriated. 78811

BUILDING CONSTRUCTION 78812

The foregoing GRF appropriation item 723501, Building 78813  
Construction, shall be used for acquiring purchased services and 78814  
for construction of a new Expositions facility for which matching 78815  
funds are received in the amount of \$1,000,000 from a private 78816  
sector partnering entity. 78817

**Sec. 291.10. DOH DEPARTMENT OF HEALTH** 78818

General Revenue Fund 78819

|            |                     |    |         |    |         |       |
|------------|---------------------|----|---------|----|---------|-------|
| GRF 440412 | Cancer Incidence    | \$ | 600,000 | \$ | 600,000 | 78820 |
|            | Surveillance System |    |         |    |         |       |

|            |                    |    |           |    |           |       |
|------------|--------------------|----|-----------|----|-----------|-------|
| GRF 440413 | Local Health       | \$ | 2,302,788 | \$ | 2,303,061 | 78821 |
|            | Department Support |    |           |    |           |       |

|            |                      |    |           |    |           |       |
|------------|----------------------|----|-----------|----|-----------|-------|
| GRF 440416 | Mothers and Children | \$ | 4,227,842 | \$ | 4,228,015 | 78822 |
|            | Safety Net Services  |    |           |    |           |       |

|            |               |    |           |    |                      |       |
|------------|---------------|----|-----------|----|----------------------|-------|
| GRF 440418 | Immunizations | \$ | 6,430,538 | \$ | <del>8,930,829</del> | 78823 |
|            |               |    |           |    | <u>8,825,829</u>     |       |

|            |                     |    |         |    |         |       |
|------------|---------------------|----|---------|----|---------|-------|
| GRF 440431 | Free Clinics Safety | \$ | 437,326 | \$ | 437,326 | 78824 |
|            | Net Services        |    |         |    |         |       |

|            |                     |    |         |    |         |       |
|------------|---------------------|----|---------|----|---------|-------|
| GRF 440438 | Breast and Cervical | \$ | 823,217 | \$ | 823,217 | 78825 |
|            | Cancer Screening    |    |         |    |         |       |

|            |                     |    |           |    |           |       |
|------------|---------------------|----|-----------|----|-----------|-------|
| GRF 440444 | AIDS Prevention and | \$ | 5,842,315 | \$ | 5,842,315 | 78826 |
|            | Treatment           |    |           |    |           |       |

|                                 |   |    |            |    |  |       |         |    |         |       |
|---------------------------------|---|----|------------|----|--|-------|---------|----|---------|-------|
| GRF 440451                      | Public Health<br>Laboratory               | \$ | 3,654,348  | \$ | 3,655,449                                  | 78827 |         |    |         |       |
| GRF 440452                      | Child and Family<br>Health Services Match | \$ | 630,390    | \$ | 630,444                                    | 78828 |         |    |         |       |
| GRF 440453                      | Health Care Quality<br>Assurance          | \$ | 8,170,694  | \$ | 8,174,361                                  | 78829 |         |    |         |       |
| GRF 440454                      | Local Environmental<br>Health             | \$ | 1,310,141  | \$ | <del>1,310,362</del><br><u>1,194,634</u>   | 78830 |         |    |         |       |
| GRF 440459                      | Help Me Grow                              | \$ | 33,673,545 | \$ | 33,673,987                                 | 78831 |         |    |         |       |
| GRF 440465                      | Federally Qualified<br>Health Centers     | \$ | 458,688    | \$ | 2,686,688                                  | 78832 |         |    |         |       |
| GRF 440467                      | Access to Dental Care                     | \$ | 540,484    | \$ | 540,484                                    | 78833 |         |    |         |       |
| GRF 440468                      | Chronic Disease and<br>Injury Prevention  | \$ | 2,577,251  | \$ | <del>2,577,251</del><br><u>2,447,251</u>   | 78834 |         |    |         |       |
| GRF 440472                      | Alcohol Testing                           | \$ | 550,000    | \$ | 1,100,000                                  | 78835 |         |    |         |       |
| GRF 440505                      | Medically Handicapped<br>Children         | \$ | 7,512,451  | \$ | 7,512,451                                  | 78836 |         |    |         |       |
| GRF 440507                      | Targeted Health Care<br>Services Over 21  | \$ | 1,045,414  | \$ | 1,045,414                                  | 78837 |         |    |         |       |
| TOTAL GRF General Revenue Fund  |   | \$ | 80,787,432 | \$ | <del>86,071,654</del><br><u>85,720,926</u> | 78838 |         |    |         |       |
| State Highway Safety Fund Group |   |    |            |    |  | 78839 |         |    |         |       |
| 4T40 440603                     | Child Highway Safety                      | \$ | 233,894    | \$ | 233,894                                    | 78840 |         |    |         |       |
| TOTAL HSF State Highway Safety  |   |    |            |    |  | 78841 |         |    |         |       |
| Fund Group                      |   |    |            |    |  | \$    | 233,894 | \$ | 233,894 | 78842 |
| General Services Fund Group     |   |    |            |    |  | 78843 |         |    |         |       |
| 1420 440646                     | Agency Health<br>Services                 | \$ | 8,825,788  | \$ | 8,826,146                                  | 78844 |         |    |         |       |
| 2110 440613                     | Central Support<br>Indirect Costs         | \$ | 28,900,000 | \$ | 29,000,000                                 | 78845 |         |    |         |       |
| 4730 440622                     | Lab Operating<br>Expenses                 | \$ | 5,000,000  | \$ | 5,000,000                                  | 78846 |         |    |         |       |

|                                    |        |   |    |             |    |  |       |
|------------------------------------|--------|---|----|-------------|----|--|-------|
| 5HB0                               | 440470 | Breast and Cervical<br>Cancer Screening | \$ | 1,000,000   | \$ | 0  | 78847 |
| 6830                               | 440633 | Employee Assistance<br>Program          | \$ | 1,100,000   | \$ | 1,100,000                                  | 78848 |
| 6980                               | 440634 | Nurse Aide Training                     | \$ | 99,239      | \$ | 99,265                                     | 78849 |
| TOTAL GSF General Services         |        |   |    |             |    |  | 78850 |
| Fund Group                         |        |   | \$ | 44,925,027  | \$ | 44,025,411                                 | 78851 |
| Federal Special Revenue Fund Group |        |   |    |             |    |  | 78852 |
| 3200                               | 440601 | Maternal Child Health<br>Block Grant    | \$ | 27,068,886  | \$ | 27,068,886                                 | 78853 |
| 3870                               | 440602 | Preventive Health<br>Block Grant        | \$ | 7,826,659   | \$ | 7,826,659                                  | 78854 |
| 3890                               | 440604 | Women, Infants, and<br>Children         | \$ | 308,672,689 | \$ | 308,672,689                                | 78855 |
| 3910                               | 440606 | Medicaid/Medicare                       | \$ | 29,625,467  | \$ | 29,257,457                                 | 78856 |
| 3920                               | 440618 | Federal Public Health<br>Programs       | \$ | 137,976,988 | \$ | 137,976,988                                | 78857 |
| TOTAL FED Federal Special Revenue  |        |   |    |             |    |  | 78858 |
| Fund Group                         |        |   | \$ | 511,170,689 | \$ | 510,802,679                                | 78859 |
| State Special Revenue Fund Group   |        |   |    |             |    |  | 78860 |
| 4700                               | 440647 | Fee Supported<br>Programs               | \$ | 24,503,065  | \$ | <del>24,513,973</del><br><u>24,263,973</u> | 78861 |
| 4710                               | 440619 | Certificate of Need                     | \$ | 878,145     | \$ | 878,433                                    | 78862 |
| 4770                               | 440627 | Medically Handicapped<br>Children Audit | \$ | 3,692,704   | \$ | 3,692,703                                  | 78863 |
| 4D60                               | 440608 | Genetics Services                       | \$ | 3,310,953   | \$ | 3,311,039                                  | 78864 |
| 4F90                               | 440610 | Sickle Cell Disease<br>Control          | \$ | 1,032,754   | \$ | 1,032,824                                  | 78865 |
| 4G00                               | 440636 | Heirloom Birth<br>Certificate           | \$ | 5,000       | \$ | 5,000                                      | 78866 |
| 4G00                               | 440637 | Birth Certificate<br>Surcharge          | \$ | 5,000       | \$ | 5,000                                      | 78867 |

|   |        |   |    |            |    |                       |                   |
|---|--------|---|----|------------|----|-----------------------|-------------------|
| 4L30                                      | 440609 | Miscellaneous Expenses                                | \$ | 3,333,164  | \$ | 3,333,164             | 78868             |
| 4P40                                      | 440628 | Ohio Physician Loan Repayment                         | \$ | 476,870    | \$ | 476,870               | 78869             |
| 4V60                                      | 440641 | Save Our Sight  | \$ | 2,255,760  | \$ | 2,255,789             | 78870             |
| 5B50                                      | 440616 | Quality, Monitoring, and Inspection                   | \$ | 878,638    | \$ | 878,997               | 78871             |
| 5C00                                      | 440615 | Alcohol Testing and Permit                            | \$ | 551,018    | \$ | 0                     | 78872             |
| 5CN0                                      | 440645 | Choose Life   | \$ | 75,000     | \$ | 75,000                | 78873             |
| 5D60                                      | 440620 | Second Chance Trust                                   | \$ | 1,151,815  | \$ | 1,151,902             | 78874             |
| 5ED0                                      | 440651 | Smoke Free Indoor Air                                 | \$ | 190,452    | \$ | 190,452               | 78875             |
| 5G40                                      | 440639 | Adoption Services                                     | \$ | 20,000     | \$ | 20,000                | 78876             |
| 5L10                                      | 440623 | Nursing Facility Technical Assistance Program         | \$ | 687,500    | \$ | 687,528               | 78877             |
| 5Z70                                      | 440624 | Ohio Dentist Loan Repayment                           | \$ | 140,000    | \$ | 140,000               | 78878             |
| 6100                                      | 440626 | Radiation Emergency Response                          | \$ | 930,525    | \$ | 930,576               | 78879             |
| 6660                                      | 440607 | Medically Handicapped Children - County Assessments   | \$ | 19,738,286 | \$ | 19,739,617            | 78880             |
| TOTAL SSR State Special Revenue           |        |   |    |            |    |                       | 78881             |
| Fund Group                                |        |   | \$ | 63,856,649 | \$ | <del>63,318,867</del> | 78882             |
|   |        |   |    |            |    |                       | <u>63,068,867</u> |
| Holding Account Redistribution Fund Group |        |   |    |            |    |                       | 78883             |
| R014                                      | 440631 | Vital Statistics                                      | \$ | 44,986     | \$ | 44,986                | 78884             |
| R048                                      | 440625 | Refunds, Grants Reconciliation, and Audit Settlements | \$ | 20,000     | \$ | 20,000                | 78885             |
| TOTAL 090 Holding Account                 |        |   |    |            |    |                       | 78886             |
| Redistribution Fund Group                 |        |   | \$ | 64,986     | \$ | 64,986                | 78887             |

|  |    |             |   |       |
|--|----|-------------|---|-------|
| Tobacco Master Settlement Agreement Fund Group           |    |             |   | 78888 |
| 5BX0 440656 Tobacco Use                                  | \$ | 1,000,000   | \$ 1,000,000                                    | 78889 |
| Prevention   |    |             |   |       |
| TOTAL TSF Tobacco Master Settlement Agreement Fund Group | \$ | 1,000,000   | \$ 1,000,000                                    | 78890 |
| TOTAL ALL BUDGET FUND GROUPS                             | \$ | 702,038,677 | \$ <del>705,517,491</del><br><u>704,916,763</u> | 78891 |

**Sec. 307.10. INS DEPARTMENT OF INSURANCE**

|  |    |            |   |       |
|--|----|------------|---|-------|
|  |    |            |   | 78893 |
| Federal Special Revenue Fund Group           |    |            |   | 78894 |
| 3EV0 820610 Health Insurance                 | \$ | 1,000,000  | \$ 1,000,000                                  | 78895 |
| Premium Review                               |    |            |   |       |
| 3EW0 820611 Health Exchange                  | \$ | 1,000,000  | \$ 1,000,000                                  | 78896 |
| Planning                                     |    |            |   |       |
| 3U50 820602 OSHIIP Operating                 | \$ | 2,270,726  | \$ 2,270,725                                  | 78897 |
| Grant  |    |            |   |       |
| TOTAL FED Federal Special Revenue Fund Group | \$ | 4,270,726  | \$ 4,270,725                                  | 78899 |
| State Special Revenue Fund Group             |    |            |   | 78900 |
| 5540 820601 Operating Expenses -             | \$ | 190,000    | \$ 180,000                                    | 78901 |
| OSHIIP                                       |    |            |   |       |
| 5540 820606 Operating Expenses               | \$ | 22,745,538 | \$ <del>22,288,550</del><br><u>22,931,817</u> | 78902 |
| 5550 820605 Examination                      | \$ | 9,065,684  | \$ <del>8,934,065</del><br><u>8,184,065</u>   | 78903 |
| TOTAL SSR State Special Revenue Fund Group   | \$ | 32,001,222 | \$ <del>31,402,615</del><br><u>31,295,882</u> | 78905 |
| TOTAL ALL BUDGET FUND GROUPS                 | \$ | 36,271,948 | \$ <del>35,673,340</del><br><u>35,566,607</u> | 78906 |

**MARKET CONDUCT EXAMINATION**

|   |  |  |  |       |
|---|--|--|--|-------|
|   |  |  |  | 78907 |
| When conducting a market conduct examination of any insurer |  |  |  | 78908 |

doing business in this state, the Superintendent of Insurance may 78909  
assess the costs of the examination against the insurer. The 78910  
superintendent may enter into consent agreements to impose 78911  
administrative assessments or fines for conduct discovered that 78912  
may be violations of statutes or rules administered by the 78913  
superintendent. All costs, assessments, or fines collected shall 78914  
be deposited to the credit of the Department of Insurance 78915  
Operating Fund (Fund 5540). 78916

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 78917

The Director of Budget and Management, at the request of the 78918  
Superintendent of Insurance, may transfer funds from the 78919  
Department of Insurance Operating Fund (Fund 5540), established by 78920  
section 3901.021 of the Revised Code, to the Superintendent's 78921  
Examination Fund (Fund 5550), established by section 3901.071 of 78922  
the Revised Code, only for expenses incurred in examining domestic 78923  
fraternal benefit societies as required by section 3921.28 of the 78924  
Revised Code. 78925

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND 78926

Not later than the thirty-first day of July each fiscal year, 78927  
the Director of Budget and Management shall transfer \$5,000,000 78928  
from the Department of Insurance Operating Fund (Fund 5540) to the 78929  
General Revenue Fund. 78930

**Sec. 309.10.** JFS DEPARTMENT OF JOB AND FAMILY SERVICES 78931

General Revenue Fund 78932

GRF 600321 Program Support 78933

Services

State \$ 34,801,760 \$ ~~31,932,117~~ 78934

31,612,796

Federal \$ 9,322,222 \$ ~~9,207,441~~ 78935

9,115,366

|            |   |    |             |    |  |       |
|------------|---|----|-------------|----|--|-------|
|            | <u>Program Support</u>  | \$ | 44,123,982  | \$ | <del>41,139,558</del>                      | 78936 |
|            | <u>Services Total</u>   |    |             |    | <u>40,728,162</u>                          |       |
| GRF 600410 | TANF State/ <u>Maintenance of Effort</u>                          | \$ | 151,386,934 | \$ | 151,386,934                                | 78937 |
| GRF 600413 | Child Care <del>Match</del><br><u>State/Maintenance of Effort</u> | \$ | 84,732,730  | \$ | 84,732,730                                 | 78938 |
| GRF 600416 | <del>Computer Information Technology</del> Projects               |    |             |    |  | 78939 |
|            | State   | \$ | 67,955,340  | \$ | <del>69,263,506</del><br><u>68,570,871</u> | 78940 |
|            | Federal   | \$ | 13,105,167  | \$ | <del>12,937,222</del><br><u>12,807,850</u> | 78941 |
|            | <del>Computer Information Technology</del> Projects               | \$ | 81,060,507  | \$ | <del>82,200,728</del><br><u>81,378,721</u> | 78942 |
|            | Total   |    |             |    |  |       |
| GRF 600417 | Medicaid Provider Audits  | \$ | 1,312,992   | \$ | <del>1,312,992</del><br><u>1,299,862</u>   | 78943 |
| GRF 600420 | Child Support <u>Administration Programs</u>                      | \$ | 6,163,534   | \$ | <del>6,065,588</del><br><u>6,004,932</u>   | 78944 |
| GRF 600421 | <del>Office of Family Stability Assistance Programs</del>         | \$ | 3,768,929   | \$ | <del>3,757,493</del><br><u>3,719,918</u>   | 78945 |
| GRF 600423 | <del>Office of Children and Families and Children Programs</del>  | \$ | 5,123,406   | \$ | 4,978,756                                  | 78946 |
| GRF 600425 | <del>Office of Ohio Health Plans Care Programs</del>              |    |             |    |  | 78947 |
|            | State   | \$ | 13,149,582  | \$ | <del>15,740,987</del><br><u>15,583,577</u> | 78948 |
|            | Federal   | \$ | 12,556,921  | \$ | <del>12,286,234</del><br><u>12,163,372</u> | 78949 |
|            | <del>Office of Ohio Health</del>                                  | \$ | 25,706,503  | \$ | <del>28,027,221</del>                      | 78950 |

|            |   |                          |                              |                   |       |
|------------|---|--------------------------|------------------------------|-------------------|-------|
|            | <u>Plans Care Programs</u>                |                          |                              | <u>27,746,949</u> |       |
|            | Total                                     |                          |                              |                   |       |
| GRF 600502 | <del>Administration</del> <u>Child</u>    | \$ 23,814,103            | \$ 23,814,103                |                   | 78951 |
|            | <u>Support</u> - Local                    |                          |                              |                   |       |
| GRF 600511 | Disability Financial                      | \$ 26,599,666            | \$ 27,108,734                |                   | 78952 |
|            | Assistance                                |                          |                              |                   |       |
| GRF 600521 | <del>Entitlement</del>                    | \$ 72,200,721            | \$ 72,200,721                |                   | 78953 |
|            | <del>Administration</del> <u>Family</u>   |                          |                              |                   |       |
|            | <u>Assistance</u> - Local                 |                          |                              |                   |       |
| GRF 600523 | <u>Family and</u> Children <del>and</del> | \$ <del>53,605,323</del> | \$ <del>53,105,323</del>     |                   | 78954 |
|            | <del>Families</del> Services              | <u>52,605,323</u>        | <u>54,105,323</u>            |                   |       |
| GRF 600525 | Health Care/Medicaid                      |                          |                              |                   | 78955 |
|            | State                                     | \$ 4,313,761,372         | \$ <del>4,689,051,017</del>  |                   | 78956 |
|            |   |                          | <u>4,689,701,017</u>         |                   |       |
|            | Federal                                   | \$ 7,530,008,024         | \$ <del>8,429,762,527</del>  |                   | 78957 |
|            |   |                          | <u>8,430,897,261</u>         |                   |       |
|            | Health Care Total                         | \$11,843,769,396         | \$ <del>13,118,813,544</del> |                   | 78958 |
|            |   |                          | <u>13,120,598,278</u>        |                   |       |
| GRF 600526 | Medicare Part D                           | \$ 277,996,490           | \$ 296,964,743               |                   | 78959 |
| GRF 600528 | Adoption Services                         |                          |                              |                   | 78960 |
|            | State                                     | \$ 29,257,932            | \$ 29,257,932                |                   | 78961 |
|            | Federal                                   | \$ 41,085,169            | \$ 41,085,169                |                   | 78962 |
|            | Adoption Services Total                   | \$ 70,343,101            | \$ 70,343,101                |                   | 78963 |
| GRF 600533 | Child, Family, and                        | \$ 13,500,000            | \$ 13,500,000                |                   | 78964 |
|            | Adult Community &                         |                          |                              |                   |       |
|            | Protective Services                       |                          |                              |                   |       |
| GRF 600534 | Adult Protective                          | \$ 366,003               | \$ 366,003                   |                   | 78965 |
|            | Services                                  |                          |                              |                   |       |
| GRF 600535 | Early Care and                            | \$ 123,596,474           | \$ 123,596,474               |                   | 78966 |
|            | Education                                 |                          |                              |                   |       |
| GRF 600537 | Children's Hospital                       | \$ 6,000,000             | \$ 6,000,000                 |                   | 78967 |
| GRF 600540 | Second Harvest Food                       | \$ 4,000,000             | \$ 4,000,000                 |                   | 78968 |
|            | Banks                                     |                          |                              |                   |       |

|             |  |                              |   |                |
|-------------|--|------------------------------|---|----------------|
| GRF 600541  | Kinship Permanency<br>Incentive Program  | \$ 2,500,000                 | \$ 3,500,000                                    | 78969          |
| TOTAL GRF   | General Revenue Fund   |                              |   | 78970          |
|             | State  | \$ <del>5,315,593,291</del>  | \$ <del>5,711,636,153</del>                     | 78971          |
|             |  | <u>5,314,593,291</u>         | <u>5,712,005,426</u>                            |                |
|             | Federal  | \$ 7,606,077,503             | \$ <del>8,505,278,593</del>                     | 78972          |
|             |  |                              | <u>8,506,069,018</u>                            |                |
|             | GRF Total  | \$ <del>12,921,670,794</del> | \$ <del>14,216,914,746</del>                    | 78973          |
|             |  | <u>12,920,670,794</u>        | <u>14,218,074,444</u>                           |                |
|             | General Services Fund Group  |                              |   | 78974          |
| 4A80 600658 | Public Assistance<br>Activities  | \$ 34,000,000                | \$ 34,000,000                                   | 78975          |
| 5C90 600671 | Medicaid Program<br>Support  | \$ 85,800,878                | \$ <del>82,839,266</del> 0                      | 78976          |
| 5DL0 600639 | <del>Medicaid Revenue and<br/>Collections</del> <u>Health<br/>Care/Medicaid Support<br/>- Recoveries</u> | \$ 89,256,974                | \$ <del>84,156,974</del><br><u>166,996,240</u>  | 78977          |
| 5DM0 600633 | Administration &<br>Operating  | \$ 20,392,173                | \$ <del>19,858,928</del><br><u>19,660,339</u>   | 78978          |
| 5FX0 600638 | Medicaid Payment<br>Withholding  | \$ 5,000,000                 | \$ 6,000,000                                    | 78979          |
| 5HL0 600602 | State and County<br>Shared services  | \$ 3,020,000                 | \$ 3,020,000                                    | 78980          |
| 5P50 600692 | <del>Prescription Drug<br/>Rebate</del> <u>State Health<br/>Care/Medicaid Support<br/>- Drug Rebates</u> | \$ 220,600,000               | \$ 242,600,000                                  | 78981          |
| 6130 600645 | Training Activities  | \$ 500,000                   | \$ 500,000                                      | 78982          |
| TOTAL GSF   | General Services<br>Fund Group   | \$ 458,570,025               | \$ <del>472,975,168</del><br><u>472,776,579</u> | 78983<br>78984 |
|             | Federal Special Revenue Fund Group   |                              |   | 78985          |

|             |               |                                   |           |               |           |                        |       |
|-------------|---------------|-----------------------------------|-----------|---------------|-----------|------------------------|-------|
| 3270        | 600606        | Child Welfare                     | \$        | 29,769,865    | \$        | 29,769,866             | 78986 |
| <u>3310</u> | <u>600615</u> | <u>Veterans Programs</u>          | <u>\$</u> | <u>0</u>      | <u>\$</u> | <u>8,000,000</u>       | 78987 |
| <u>3310</u> | <u>600624</u> | <u>Employment Services</u>        | <u>\$</u> | <u>0</u>      | <u>\$</u> | <u>33,943,023</u>      | 78988 |
|             |               | <u>Programs</u>                   |           |               |           |                        |       |
| 3310        | 600686        | <del>Federal Operating</del>      | \$        | 49,128,140    | \$        | <del>48,203,023</del>  | 78989 |
|             |               | <u>Workforce Programs</u>         |           |               |           | <u>6,260,000</u>       |       |
| 3840        | 600610        | Food Assistance <del>and</del>    | \$        | 180,381,394   | \$        | 180,381,394            | 78990 |
|             |               | <del>State Administration</del>   |           |               |           |                        |       |
|             |               | <u>Programs</u>                   |           |               |           |                        |       |
| 3850        | 600614        | Refugee Services                  | \$        | 11,582,440    | \$        | 12,564,952             | 78991 |
| 3950        | 600616        | <del>Special</del>                | \$        | 2,259,264     | \$        | 2,259,264              | 78992 |
|             |               | <del>Activities/Child and</del>   |           |               |           |                        |       |
|             |               | <del>Family Services</del>        |           |               |           |                        |       |
|             |               | <u>Federal Discretionary</u>      |           |               |           |                        |       |
|             |               | <u>Grants</u>                     |           |               |           |                        |       |
| 3960        | 600620        | Social Services Block             | \$        | 64,999,999    | \$        | 64,999,998             | 78993 |
|             |               | Grant                             |           |               |           |                        |       |
| 3970        | 600626        | Child Support =                   | \$        | 255,812,837   | \$        | 255,813,528            | 78994 |
|             |               | <u>Federal</u>                    |           |               |           |                        |       |
| 3980        | 600627        | Adoption <del>Maintenance/</del>  | \$        | 352,183,862   | \$        | <del>352,184,253</del> | 78995 |
|             |               | <del>Administration Program</del> |           |               |           | <u>174,178,779</u>     |       |
|             |               | <u>- Federal</u>                  |           |               |           |                        |       |
| 3A20        | 600641        | Emergency Food                    | \$        | 5,000,000     | \$        | 5,000,000              | 78996 |
|             |               | Distribution                      |           |               |           |                        |       |
| 3AW0        | 600675        | Faith Based                       | \$        | 544,140       | \$        | 544,140                | 78997 |
|             |               | Initiatives                       |           |               |           |                        |       |
| 3D30        | 600648        | Children's Trust Fund             | \$        | 2,040,524     | \$        | 2,040,524              | 78998 |
|             |               | Federal                           |           |               |           |                        |       |
| 3ER0        | 600603        | Health Information                | \$        | 411,661,286   | \$        | 416,395,286            | 78999 |
|             |               | Technology                        |           |               |           |                        |       |
| 3F00        | 600623        | Health Care Federal               | \$        | 2,637,061,505 | \$        | 2,720,724,869          | 79000 |
| 3F00        | 600650        | Hospital Care                     | \$        | 372,784,046   | \$        | 380,645,627            | 79001 |
|             |               | Assurance <del>Match =</del>      |           |               |           |                        |       |

|                       |        |  |    |               |    |                              |
|-----------------------|--------|--|----|---------------|----|------------------------------|
|                       |        | <u>Federal</u>                           |    |               |    |                              |
| 3FA0                  | 600680 | <del>Ohio</del> Health Care              | \$ | 9,405,000     | \$ | 20,000,000 79002             |
|                       |        | Grants - <u>Federal</u>                  |    |               |    |                              |
| 3G50                  | 600655 | Interagency                              | \$ | 1,621,305,787 | \$ | 1,380,391,478 79003          |
|                       |        | Reimbursement                            |    |               |    |                              |
| 3H70                  | 600617 | Child Care Federal                       | \$ | 208,290,036   | \$ | 204,813,731 79004            |
| 3N00                  | 600628 | <del>IV-E</del> Foster Care              | \$ | 133,963,142   | \$ | <del>133,963,142</del> 79005 |
|                       |        | Maintenance Program -                    |    |               |    | <u>311,968,616</u>           |
|                       |        | <u>Federal</u>                           |    |               |    |                              |
| 3S50                  | 600622 | Child Support Projects                   | \$ | 534,050       | \$ | 534,050 79006                |
| 3V00                  | 600688 | Workforce Investment                     | \$ | 176,496,250   | \$ | 172,805,562 79007            |
|                       |        | Act <u>Programs</u>                      |    |               |    |                              |
| 3V40                  | 600678 | Federal Unemployment                     | \$ | 188,680,096   | \$ | 186,723,415 79008            |
|                       |        | Programs                                 |    |               |    |                              |
| 3V40                  | 600679 | <del>Unemployment</del>                  | \$ | 4,166,988     | \$ | 4,068,758 79009              |
|                       |        | <del>Compensation</del> <u>UC</u> Review |    |               |    |                              |
|                       |        | Commission - Federal                     |    |               |    |                              |
| 3V60                  | 600689 | TANF Block Grant                         | \$ | 727,968,260   | \$ | 727,968,260 79010            |
| TOTAL FED             |        | Federal Special Revenue                  |    |               |    | 79011                        |
| Fund Group            |        |  | \$ | 7,446,018,911 | \$ | 7,302,795,120 79012          |
| State Special Revenue |        | Fund Group                               |    |               |    | 79013                        |
| 1980                  | 600647 | Children's Trust Fund                    | \$ | 5,873,637     | \$ | 5,873,848 79014              |
| 4A90                  | 600607 | Unemployment                             | \$ | 21,924,998    | \$ | 21,424,998 79015             |
|                       |        | Compensation                             |    |               |    |                              |
|                       |        | Administration Fund                      |    |               |    |                              |
| 4A90                  | 600694 | <del>Unemployment</del>                  | \$ | 2,173,167     | \$ | 2,117,031 79016              |
|                       |        | <del>Compensation</del> <u>UC</u> Review |    |               |    |                              |
|                       |        | Commission - <u>SAF</u>                  |    |               |    |                              |
| 4E30                  | 600605 | <del>Nursing Home</del>                  | \$ | 2,878,320     | \$ | 2,878,319 79017              |
|                       |        | <del>Assessments</del> <u>Resident</u>   |    |               |    |                              |
|                       |        | <u>Protection</u> Fund                   |    |               |    |                              |
| 4E70                  | 600604 | <del>Child and Family</del> <u>and</u>   | \$ | 400,000       | \$ | 400,000 79018                |
|                       |        | <u>Children</u> Services                 |    |               |    |                              |

|             |               |                                   |           |                  |           |                       |
|-------------|---------------|-----------------------------------|-----------|------------------|-----------|-----------------------|
|             |               | Collections                       |           |                  |           |                       |
| 4F10        | 600609        | <u>Family and Children</u>        | \$        | 683,359          | \$        | 683,549               |
|             |               | <del>and Family Services</del>    |           |                  |           | 79019                 |
|             |               | Activities                        |           |                  |           |                       |
| 4K10        | 600621        | <del>ICF/MR Bed Assessments</del> | \$        | 41,405,596       | \$        | 44,372,874            |
|             |               | <u>DDD Support -</u>              |           |                  |           | 79020                 |
|             |               | <u>Franchise Fee</u>              |           |                  |           |                       |
| 4Z10        | 600625        | HealthCare Compliance             | \$        | 11,551,076       | \$        | 14,582,000            |
| 5AJ0        | 600631        | Money Follows the                 | \$        | 5,483,080        | \$        | 4,733,080             |
|             |               | Person                            |           |                  |           | 79022                 |
| 5DB0        | 600637        | <del>Military Injury Grants</del> | \$        | 2,000,000        | \$        | 2,000,000             |
|             |               | <u>Relief Subsidies</u>           |           |                  |           | 79023                 |
| 5DP0        | 600634        | Adoption Assistance               | \$        | 500,000          | \$        | 500,000               |
|             |               | Loan                              |           |                  |           | 79024                 |
| 5ES0        | 600630        | Food <u>Bank</u> Assistance       | \$        | 500,000          | \$        | 500,000               |
| 5GF0        | 600656        | <del>Medicaid Health</del>        | \$        | 436,000,000      | \$        | 436,000,000           |
|             |               | <u>Care/Medicaid Support</u>      |           |                  |           | 79026                 |
|             |               | - Hospital/ <u>UPL</u>            |           |                  |           |                       |
| 5KC0        | 600682        | Health Care <del>Special</del>    | \$        | 10,000,000       | \$        | 10,000,000            |
|             |               | <u>Activities Grants -</u>        |           |                  |           | 79027                 |
|             |               | <u>State</u>                      |           |                  |           |                       |
| <u>5KU0</u> | <u>600611</u> | <u>Unemployment</u>               | <u>\$</u> | <u>2,000,000</u> | <u>\$</u> | <u>4,000,000</u>      |
|             |               | <u>Compensation Support -</u>     |           |                  |           | 79028                 |
|             |               | <u>Other Sources</u>              |           |                  |           |                       |
| 5R20        | 600608        | <del>Medicaid-Nursing</del>       | \$        | 402,489,308      | \$        | 407,100,746           |
|             |               | <u>Facilities Long-Term</u>       |           |                  |           | 79029                 |
|             |               | <u>Care Support</u>               |           |                  |           |                       |
| 5S30        | 600629        | <del>MR/DD Medicaid</del>         | \$        | 9,252,738        | \$        | 9,147,791             |
|             |               | <u>Administration Health</u>      |           |                  |           | 79030                 |
|             |               | <u>Care Program and</u>           |           |                  |           |                       |
|             |               | <u>Oversight DDD Support</u>      |           |                  |           |                       |
| 5U30        | 600654        | <del>Health Care Services</del>   | \$        | 24,400,000       | \$        | <del>24,400,000</del> |
|             |               | <u>Administration Program</u>     |           |                  |           | 79031                 |
|             |               |                                   |           |                  |           | <u>24,156,000</u>     |

|                              |  |                                       |    |                           |    |                           |
|------------------------------|--|---------------------------------------|----|---------------------------|----|---------------------------|
|                              |  | <u>Support</u>                        |    |                           |    |                           |
| 5U60                         | 600663   | <del>Children</del> <u>Family</u> and | \$ | 4,000,000                 | \$ | 4,000,000                 |
|                              |  | <u>Family Children</u>                |    |                           |    | 79032                     |
|                              |  | Support                               |    |                           |    |                           |
| 6510                         | 600649   | Hospital Care                         | \$ | 212,526,123               | \$ | 217,008,050               |
|                              |  | Assurance Program Fund                |    |                           |    | 79033                     |
| TOTAL SSR                    | State Special Revenue  |                                       |    |                           |    | 79034                     |
| Fund Group                   |  |                                       | \$ | <del>1,194,041,402</del>  | \$ | <del>1,207,722,286</del>  |
|                              |  |                                       |    | <u>1,196,041,402</u>      |    | <u>1,211,478,286</u>      |
| Agency Fund Group            |  |                                       |    |                           |    | 79036                     |
| 1920                         | 600646   | <u>Child</u> Support                  | \$ | 130,000,000               | \$ | <del>130,000,000</del>    |
|                              |  | Intercept - Federal                   |    |                           |    | <u>129,250,000</u>        |
| 5830                         | 600642   | <u>Child</u> Support                  | \$ | 16,000,000                | \$ | <del>16,000,000</del>     |
|                              |  | Intercept - State                     |    |                           |    | <u>14,000,000</u>         |
| 5B60                         | 600601   | Food Assistance                       | \$ | 2,000,000                 | \$ | <del>2,000,000</del>      |
|                              |  | Intercept                             |    |                           |    | <u>1,000,000</u>          |
| TOTAL AGY                    | Agency Fund Group  |                                       | \$ | 148,000,000               | \$ | <del>148,000,000</del>    |
|                              |  |                                       |    |                           |    | <u>144,250,000</u>        |
| Holding Account              | Redistribution Fund Group                                    |                                       |    |                           |    | 79041                     |
| R012                         | 600643   | Refunds and Audit                     | \$ | 2,200,000                 | \$ | 2,200,000                 |
|                              |  | Settlements                           |    |                           |    | 79042                     |
| R013                         | 600644   | Forgery Collections                   | \$ | 10,000                    | \$ | 10,000                    |
| TOTAL 090                    | Holding Account  |                                       | \$ | 2,210,000                 | \$ | 2,210,000                 |
| Redistribution Fund Group    |  |                                       |    |                           |    | 79044                     |
| TOTAL ALL BUDGET FUND GROUPS |  |                                       | \$ | <del>22,170,511,132</del> | \$ | <del>23,350,617,320</del> |
|                              |  |                                       |    | <u>22,171,511,132</u>     |    | <u>23,351,584,429</u>     |
| <b>Sec. 309.30.10.</b>       | HEALTH CARE/MEDICAID   |                                       |    |                           |    | 79047                     |
|                              | The foregoing appropriation item 600525, Health              |                                       |    |                           |    | 79048                     |
|                              | Care/Medicaid, shall not be limited by section 131.33 of the |                                       |    |                           |    | 79049                     |
|                              | Revised Code.  |                                       |    |                           |    | 79050                     |
|                              | <u>HEALTH CARE/MEDICAID ENDING BALANCE</u>                   |                                       |    |                           |    | 79051                     |

Thirty million dollars of the unexpended and unencumbered 79052  
portion of appropriation item 600525, Health Care/Medicaid, at the 79053  
end of fiscal year 2012 is hereby reappropriated to the Department 79054  
of Job and Family Services for payments to nursing facilities for 79055  
fiscal year 2013 in accordance with the section of this act titled 79056  
"FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO NURSING FACILITIES." 79057

**Sec. 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES** 79058

(A) As used in this section, "charge high trim point" means a 79059  
measure, excluding the measure established by paragraph (A)(6) of 79060  
rule 5101:3-2-07.9 of the Administrative Code, used to determine 79061  
whether a claim for a hospital inpatient service qualifies for a 79062  
cost outlier payment under the Medicaid program. 79063

(B) For fiscal year 2012 and fiscal year 2013, the Director 79064  
of Job and Family Services shall implement purchasing strategies 79065  
and rate reductions for hospital and other Medicaid-covered 79066  
services, as determined by the Director, that result in payment 79067  
rates for those services being at least two per cent less than the 79068  
respective payment rates for fiscal year 2011. In implementing the 79069  
purchasing strategies and rate reductions, the Director shall do 79070  
the following: 79071

(1) Notwithstanding the section of ~~this act~~ Am. Sub. H.B. 153 79072  
of the 129th General Assembly titled "CONTINUATION OF MEDICAID 79073  
RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES," modernize 79074  
hospital inpatient and outpatient reimbursement methodologies by 79075  
doing the following: 79076

(a) Modifying the inpatient hospital capital reimbursement 79077  
methodology; 79078

(b) Establishing new diagnosis-related groups in a 79079  
cost-neutral manner; 79080

(c) For hospital discharges that occur during the period 79081

beginning October 1, 2011, and ending January 1, 2012, modifying 79082  
charge high trim points, as in effect on January 1, 2011, by a 79083  
factor of 13.6%; 79084

(d) For hospital discharges that occur during the period 79085  
beginning January 1, 2012, and ending on the effective date of the 79086  
first of the new diagnosis-related groups established under 79087  
division (B)(1)(b) of this section, modifying charge high trim 79088  
points, as in effect on October 1, 2011, by a factor of 9.72%; 79089

(e) Implementing other changes the Director considers 79090  
appropriate. 79091

(2) Establish selective contracting and prior authorization 79092  
requirements for types of medical assistance the Director 79093  
identifies. 79094

(C) The Director shall adopt rules under ~~section~~ sections 79095  
5111.02 and 5111.85 of the Revised Code as necessary to implement 79096  
this section. The rules adopted to implement divisions (B)(1)(a), 79097  
(b), and (e) of this section shall include quality factors and 79098  
quality-based incentive payments. 79099

(D) This section does not apply to nursing facility and 79100  
intermediate care facility for the mentally retarded services 79101  
provided under the Medicaid program. 79102

**Sec. 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT** 79103  
SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE 79104  
HOSPITAL INCENTIVE PAYMENT PROGRAM 79105

(A) As used in this section: 79106

(1) "Hospital" has the same meaning as in section 5112.40 of 79107  
the Revised Code. 79108

(2) "Hospital Assessment Fund" means the fund created under 79109  
section 5112.45 of the Revised Code. 79110

(3) "Medicaid managed care organization" means an entity 79111  
under contract pursuant to section 5111.17 of the Revised Code to 79112  
provide or arrange services for Medicaid recipients who are 79113  
required or permitted to participate in the Medicaid care 79114  
management system. 79115

(B) The Department of Job and Family Services shall submit to 79116  
the United States Secretary of Health and Human Services a 79117  
Medicaid state plan amendment to do both of the following: 79118

(1) Continue the Hospital Inpatient and Outpatient 79119  
Supplemental Upper Payment Limit Program that was established 79120  
pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th 79121  
General Assembly, with any modifications necessary to implement 79122  
the program as described under division (D) of this section; 79123

(2) Create the Medicaid Managed Care Hospital Incentive 79124  
Payment Program, as described under division (E) of this section. 79125

(C) Of the amounts deposited into the Hospital Assessment 79126  
Fund in fiscal year 2012 and fiscal year 2013: 79127

(1) Up to \$432,432,725 (state and federal) in fiscal year 79128  
2012 and up to \$415,162,388 (state and federal) in fiscal year 79129  
2013 shall be used for the Hospital Inpatient and Outpatient 79130  
Supplemental Upper Payment Limit Program; 79131

(2) Up to \$162,000,000 (state and federal) in each fiscal 79132  
year shall be used for the Medicaid Managed Care Hospital 79133  
Incentive Payment Program; 79134

(3) Up to \$176,021,111 (state and federal) in fiscal year 79135  
2012 and up to \$195,158,394 (state and federal) in fiscal year 79136  
2013 shall be used for the program authorized by the section of 79137  
~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled 79138  
"CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND 79139  
OUTPATIENT SERVICES." 79140

(D)(1) If the Medicaid state plan amendment submitted under 79141  
division (B)(1) of this section is approved, the Department shall 79142  
implement the Hospital Inpatient and Outpatient Supplemental Upper 79143  
Payment Limit Program during fiscal year 2012 and fiscal year 79144  
2013. Under the Program, subject to division (D)(2) of this 79145  
section, supplemental Medicaid payments shall be made to hospitals 79146  
for Medicaid-covered inpatient and outpatient services. The 79147  
Department shall make the payments through amounts that are made 79148  
available for the Program under division (C) of this section and 79149  
any federal financial participation available for the Program. 79150

(2) The Department shall take all actions necessary to cease 79151  
implementation of the Program if the United States Secretary 79152  
determines that the assessment imposed under section 5112.41 of 79153  
the Revised Code is an impermissible healthcare-related tax under 79154  
section 1903(w) of the "Social Security Act," 105 Stat. 1793 79155  
(1991), 42 U.S.C. 1396b(w), as amended. 79156

(E)(1) If the Medicaid state plan amendment submitted under 79157  
division (B)(2) of this section is approved, the Department shall 79158  
implement the Medicaid Managed Care Hospital Incentive Payment 79159  
Program. The purpose of the Program is to increase access to 79160  
hospital services for Medicaid recipients who are enrolled in 79161  
Medicaid managed care organizations. 79162

Under the Program, subject to division (E)(3) of this 79163  
section, funds shall be provided to Medicaid managed care 79164  
organizations, which shall use the funds to increase payments to 79165  
hospitals for providing services to Medicaid recipients who are 79166  
enrolled in the organizations. The Department shall provide the 79167  
funds through amounts that are made available for the Program 79168  
under division (C) of this section and any federal financial 79169  
participation available for the Program. 79170

(2) Not later than July 1, 2012, the Department shall select 79171  
an actuary to conduct a study of the contracted reimbursement 79172

rates between Medicaid managed care organizations and hospitals. 79173  
The actuary shall determine if a reduction in the capitation rates 79174  
paid to Medicaid managed care organizations in fiscal year 2013 is 79175  
appropriate as a result of the contracted reimbursement rates 79176  
between the organizations and hospitals. The actuary shall notify 79177  
the Department of its determination. 79178

If the actuary determines that a reduction in the capitation 79179  
rates paid to Medicaid managed care organizations in fiscal year 79180  
2013 will not achieve \$22 million in state savings in fiscal year 79181  
2013, the state shall receive the difference between what the 79182  
actuary determines the state will save and \$22 million. The 79183  
Department, in consultation with the Ohio Association of Health 79184  
Plans and the Ohio Hospital Association, shall establish a 79185  
methodology under which the difference is paid equally by Medicaid 79186  
managed care organizations and hospitals in this state. 79187

Notwithstanding anything to the contrary specified in 79188  
division (E)(3)(b) or (c) of this section, the Medicaid managed 79189  
care organizations and hospitals shall pay the amounts determined 79190  
under the methodology, unless the Department waives the 79191  
requirement to make the payments. The requirement may be waived if 79192  
spending for the Medicaid program in fiscal year 2013 is less than 79193  
the amount that is budgeted for that fiscal year. If payments are 79194  
made, the amount received by the Department shall be deposited 79195  
into the state treasury to the credit of the Health Care 79196  
Compliance Fund created under section ~~5111.171~~ 5111.946 of the 79197  
Revised Code. 79198

(3)(a) The Department shall not provide funds to Medicaid 79199  
managed care organizations under the Program unless an actuary 79200  
selected by the Department certifies that the Program would not 79201  
violate the actuarial soundness of the capitation rates paid to 79202  
Medicaid managed care organizations. 79203

(b) The Department shall not implement the Program in a 79204

manner that causes a hospital to receive less money from the Hospital Assessment Fund than the hospital would have received if the Program were not implemented.

(c) The Department shall not implement the Program in a manner that causes a Medicaid managed care organization to receive a lower capitation payment rate solely because funds are made available to the organization under the Program.

(d) The Department shall take all necessary actions to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5112.41 of the Revised Code is an impermissible healthcare-related tax under section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C. 1396b(w), as amended.

(F) The Director of Budget and Management may authorize additional expenditures from appropriation item 600623, Health Care Federal, appropriation item 600525, Health Care/Medicaid, and appropriation item 600656, Medicaid-Hospital, in order to implement the programs authorized by this section and to implement 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." Any amounts authorized are hereby appropriated.

(G) Nothing in this section reduces payments to children's hospitals authorized under the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "CHILDREN'S HOSPITALS SUPPLEMENTAL FUNDING."

**Sec. 309.30.53. MEDICAID MANAGED CARE EXEMPTIONS**

(A) As used in this section, "disabled individual" means any individual receiving services through the program for medically handicapped children established under section 3701.023 of the

|   |  |
|---|--|
| <u>Revised Code who has one or more of the following conditions:</u>  | 79235  |
| <u>(1) Cystic fibrosis;</u>   | 79236  |
| <u>(2) Hemophilia;</u>  | 79237  |
| <u>(3) Cancer.</u>  | 79238  |
| <u>(B) Notwithstanding section 5111.16 of the Revised Code, as amended by <del>this act</del> <u>Am. Sub. H.B. 153 of the 129th General Assembly</u>, the Department of Job and Family Services shall not include in the care management system established under that section <del>in either fiscal year 2012 or fiscal year 2013 any individual receiving services through the program for medically handicapped children established under section 3701.023 of the Revised Code who has one or more of the following conditions and who was not receiving services through the care management system immediately before the effective date of this section:</del></u> | 79239<br>79240<br>79241<br>79242<br>79243<br>79244<br>79245<br>79246<br>79247<br>79248 |
| <del>(1) Cystic fibrosis;</del>   | 79249  |
| <del>(2) Hemophilia;</del>  | 79250  |
| <del>(3) Cancer</del> <u>any disabled individual who was not receiving services through the care management system immediately before June 30, 2011, until the later of the following:</u>  | 79251<br>79252<br>79253  |
| <u>(1) January 1, 2014;</u>   | 79254  |
| <u>(2) One year after the date that the Department first designates any individual who receives Medicaid on the basis of being aged, blind, or disabled who is under twenty-one years of age as an individual who is permitted or required to participate in the care management system.</u>  | 79255<br>79256<br>79257<br>79258<br>79259  |
| <b>Sec. 309.30.73. JOINT LEGISLATIVE COMMITTEE FOR UNIFIED LONG-TERM SERVICES AND SUPPORTS</b>  | 79260<br>79261   |
| (A) There is hereby created the Joint Legislative Committee for Unified Long-Term Services and Supports. The Committee shall  | 79262<br>79263   |

consist of the following members: 79264

(1) Two members of the House of Representatives from the 79265  
majority party, appointed by the Speaker of the House of 79266  
Representatives; 79267

(2) One member of the House of Representatives from the 79268  
minority party, appointed by the Speaker of the House of 79269  
Representatives; 79270

(3) Two members of the Senate from the majority party, 79271  
appointed by the President of the Senate; 79272

(4) One member of the Senate from the minority party, 79273  
appointed by the President of the Senate. 79274

(B) The Speaker of the House of Representatives shall 79275  
designate one of the members of the Committee appointed under 79276  
division (A)(1) of this section to serve as co-chairperson of the 79277  
Committee. The President of the Senate shall designate one of the 79278  
members of the Committee appointed under division (A)(3) of this 79279  
section to serve as the other co-chairperson of the Committee. The 79280  
Committee shall meet at the call of the co-chairpersons. The 79281  
co-chairpersons may request assistance for the Committee from the 79282  
Legislative Service Commission. 79283

(C) The Committee may examine the following issues: 79284

(1) The implementation of the dual eligible integrated care 79285  
demonstration project authorized by section 5111.981 of the 79286  
Revised Code; 79287

(2) The implementation of a unified long-term services and 79288  
support Medicaid waiver component under section 5111.864 of the 79289  
Revised Code; 79290

(3) Providing consumers choices regarding a continuum of 79291  
services that meet their health-care needs, promote autonomy and 79292  
independence, and improve quality of life; 79293

(4) Ensuring that long-term care services and supports are delivered in a cost-effective and quality manner; 79294  
79295

(5) Subjecting county homes, county nursing homes, and district homes operated pursuant to Chapter 5155. of the Revised Code to the franchise permit fee under sections 3721.50 to 3721.58 of the Revised Code; 79296  
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(6) Other issues of interest to the committee. 79300

(D) The co-chairpersons of the Committee shall provide for the Medical Assistance Director ~~of the Office of Ohio Health Plans in the Department of Job and Family Services~~ to testify before the Committee not later than September 30, 2011, and at least quarterly thereafter regarding the issues that the Committee examines. 79301  
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**Sec. 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION** 79307

Notwithstanding the provisions of section ~~5111.171~~ 5111.946 of the Revised Code specifying the uses of the ~~HealthCare~~ Health Care Compliance Fund, appropriations in appropriation item 600625, HealthCare Compliance, may be used for expenses incurred in implementation or operation of Health Home programs, contracts for consultants regarding Medicaid, and for the creation, modification, or replacement of any federally funded Medicaid healthcare systems in fiscal year 2012 and fiscal year 2013. 79308  
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**Sec. 313.10. JCO JUDICIAL CONFERENCE OF OHIO** 79316

General Revenue Fund 79317

|            |                      |    |                    |    |                    |       |
|------------|----------------------|----|--------------------|----|--------------------|-------|
| GRF 018321 | Operating Expenses   | \$ | <del>720,000</del> | \$ | <del>720,000</del> | 79318 |
|            |                      |    | <u>801,000</u>     |    | <u>801,700</u>     |       |
| TOTAL GRF  | General Revenue Fund | \$ | <del>720,000</del> | \$ | <del>720,000</del> | 79319 |
|            |                      |    | <u>801,000</u>     |    | <u>801,700</u>     |       |

General Services Fund Group 79320

|  |    |                      |    |                      |       |
|--|----|----------------------|----|----------------------|-------|
| 4030 018601 Ohio Jury  | \$ | 350,000              | \$ | 350,000              | 79321 |
| Instructions   |    |                      |    |                      |       |
| TOTAL GSF General Services Fund  | \$ | 350,000              | \$ | 350,000              | 79322 |
| Group  |    |                      |    |                      |       |
| TOTAL ALL BUDGET FUND GROUPS   | \$ | <del>1,070,000</del> | \$ | <del>1,070,000</del> | 79323 |
|  |    | <u>1,151,000</u>     |    | <u>1,151,700</u>     |       |
| <u>STATE COUNCIL OF UNIFORM STATE LAWS</u>                                 |    |                      |    |                      | 79324 |
| <u>Notwithstanding section 105.26 of the Revised Code, of the</u>          |    |                      |    |                      | 79325 |
| <u>foregoing appropriation item 018321, Operating Expenses, up to</u>      |    |                      |    |                      | 79326 |
| <u>\$81,000 in fiscal year 2012 and up to \$81,700 in fiscal year 2013</u> |    |                      |    |                      | 79327 |
| <u>shall be used to pay the expenses of the State Council of Uniform</u>   |    |                      |    |                      | 79328 |
| <u>State Laws, including membership dues to the National Conference</u>    |    |                      |    |                      | 79329 |
| <u>of Commissioners on Uniform State Laws.</u>                             |    |                      |    |                      | 79330 |
| OHIO JURY INSTRUCTIONS FUND  |    |                      |    |                      | 79331 |
| The Ohio Jury Instructions Fund (Fund 4030) shall consist of               |    |                      |    |                      | 79332 |
| grants, royalties, dues, conference fees, bequests, devises, and           |    |                      |    |                      | 79333 |
| other gifts received for the purpose of supporting costs incurred          |    |                      |    |                      | 79334 |
| by the Judicial Conference of Ohio in its activities as a part of          |    |                      |    |                      | 79335 |
| the judicial system of the state as determined by the Judicial             |    |                      |    |                      | 79336 |
| Conference Executive Committee. Fund 4030 shall be used by the             |    |                      |    |                      | 79337 |
| Judicial Conference of Ohio to pay expenses incurred in its                |    |                      |    |                      | 79338 |
| activities as a part of the judicial system of the state as                |    |                      |    |                      | 79339 |
| determined by the Judicial Conference Executive Committee. All             |    |                      |    |                      | 79340 |
| moneys accruing to Fund 4030 in excess of \$350,000 in fiscal year         |    |                      |    |                      | 79341 |
| 2012 and in excess of \$350,000 in fiscal year 2013 are hereby             |    |                      |    |                      | 79342 |
| appropriated for the purposes authorized.                                  |    |                      |    |                      | 79343 |
| No money in Fund 4030 shall be transferred to any other fund               |    |                      |    |                      | 79344 |
| by the Director of Budget and Management or the Controlling Board.         |    |                      |    |                      | 79345 |
| <b>Sec. 315.10. JSC THE JUDICIARY/SUPREME COURT</b>                        |    |                      |    |                      | 79346 |
| General Revenue Fund   |    |                      |    |                      | 79347 |

|  |                       |    |                        |    |                        |       |
|--|-----------------------|----|------------------------|----|------------------------|-------|
| GRF 005321   | Operating Expenses -  | \$ | <del>133,704,620</del> | \$ | <del>132,565,410</del> | 79348 |
|  | Judiciary/Supreme     |    | <u>132,347,507</u>     |    | <u>133,922,523</u>     |       |
|  | Court                 |    |                        |    |                        |       |
| GRF 005406   | Law_Related Education | \$ | 236,172                | \$ | 236,172                | 79349 |
| GRF 005409   | Ohio Courts           | \$ | 2,150,000              | \$ | 2,150,000              | 79350 |
|  | Technology Initiative |    |                        |    |                        |       |
| TOTAL GRF General Revenue Fund                                     |                       | \$ | <del>136,090,792</del> | \$ | <del>134,951,582</del> | 79351 |
|  |                       |    | <u>134,733,679</u>     |    | <u>136,308,695</u>     |       |
| General Services Fund Group  |                       |    |                        |    |                        | 79352 |
| 6720 005601  | Continuing Judicial   | \$ | 172,142                | \$ | 169,420                | 79353 |
|  | Education             |    |                        |    |                        |       |
| TOTAL GSF General Services Fund                                    |                       | \$ | 172,142                | \$ | 169,420                | 79354 |
| Group  |                       |    |                        |    |                        |       |
| Federal Special Revenue Fund Group                                 |                       |    |                        |    |                        | 79355 |
| 3J00 005603  | Federal Grants        | \$ | 1,653,317              | \$ | 1,605,717              | 79356 |
| TOTAL FED Federal Special Revenue                                  |                       | \$ | 1,653,317              | \$ | 1,605,717              | 79357 |
| Fund Group   |                       |    |                        |    |                        |       |
| State Special Revenue Fund Group                                   |                       |    |                        |    |                        | 79358 |
| 4C80 005605  | Attorney Services     | \$ | 3,718,328              | \$ | 3,695,192              | 79359 |
| 5HT0 005617  | Court Interpreter     | \$ | 39,000                 | \$ | 39,000                 | 79360 |
|  | Certification         |    |                        |    |                        |       |
| 5T80 005609  | Grants and Awards     | \$ | 50,000                 | \$ | 50,000                 | 79361 |
| 6A80 005606  | Supreme Court         | \$ | 1,223,340              | \$ | 1,205,056              | 79362 |
|  | Admissions            |    |                        |    |                        |       |
| TOTAL SSR State Special Revenue                                    |                       | \$ | 5,030,668              | \$ | 4,989,248              | 79363 |
| Fund Group   |                       |    |                        |    |                        |       |
| TOTAL ALL BUDGET FUND GROUPS                                       |                       | \$ | <del>142,946,919</del> | \$ | <del>141,715,967</del> | 79364 |
|  |                       |    | <u>141,589,806</u>     |    | <u>143,073,080</u>     |       |
| OPERATING EXPENSES - JUDICIARY/SUPREME COURT                       |                       |    |                        |    |                        | 79365 |
| Of the foregoing appropriation item 005321, Operating              |                       |    |                        |    |                        | 79366 |
| Expenses - Judiciary/Supreme Court, up to \$206,770 in each fiscal |                       |    |                        |    |                        | 79367 |
| year may be used to support the functions of the State Criminal    |                       |    |                        |    |                        | 79368 |

|   |   |
|---|---|
| Sentencing Council.   | 79369   |
| LAW-RELATED EDUCATION   | 79370   |
| The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.   | 79371<br>79372<br>79373<br>79374<br>79375<br>79376<br>79377   |
| OHIO COURTS TECHNOLOGY INITIATIVE   | 79378   |
| The foregoing appropriation item 005409, Ohio Courts Technology Initiative, shall be used to fund an initiative by the Supreme Court to facilitate the exchange of information and warehousing of data by and between Ohio courts and other justice system partners through the creation of an Ohio Courts Network, the delivery of technology services to courts throughout the state, including the provision of hardware, software, and the development and implementation of educational and training programs for judges and court personnel, and operation of the Commission on Technology and the Courts by the Supreme Court for the promulgation of statewide rules, policies, and uniform standards, and to aid in the orderly adoption and comprehensive use of technology in Ohio courts. | 79379<br>79380<br>79381<br>79382<br>79383<br>79384<br>79385<br>79386<br>79387<br>79388<br>79389<br>79390<br>79391 |
| CONTINUING JUDICIAL EDUCATION   | 79392   |
| The Continuing Judicial Education Fund (Fund 6720) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative   | 79393<br>79394<br>79395<br>79396<br>79397<br>79398<br>79399   |

Director of the Supreme Court that additional appropriations are 79400  
necessary, the amounts are hereby appropriated. 79401

No money in Fund 6720 shall be transferred to any other fund 79402  
by the Director of Budget and Management or the Controlling Board. 79403  
Interest earned on money in Fund 6720 shall be credited to the 79404  
fund. 79405

FEDERAL GRANTS 79406

The Federal Grants Fund (Fund 3J00) shall consist of grants 79407  
and other moneys awarded to the Supreme Court (The Judiciary) by 79408  
the United States Government or other entities that receive the 79409  
moneys directly from the United States Government and distribute 79410  
those moneys to the Supreme Court (The Judiciary). The foregoing 79411  
appropriation item 005603, Federal Grants, shall be used in a 79412  
manner consistent with the purpose of the grant or award. If it is 79413  
determined by the Administrative Director of the Supreme Court 79414  
that additional appropriations are necessary, the amounts are 79415  
hereby appropriated. 79416

No money in Fund 3J00 shall be transferred to any other fund 79417  
by the Director of Budget and Management or the Controlling Board. 79418  
However, interest earned on money in Fund 3J00 shall be credited 79419  
or transferred to the General Revenue Fund. 79420

ATTORNEY SERVICES 79421

The Attorney Services Fund (Fund 4C80), formerly known as the 79422  
Attorney Registration Fund, shall consist of money received by the 79423  
Supreme Court (The Judiciary) pursuant to the Rules for the 79424  
Government of the Bar of Ohio. In addition to funding other 79425  
activities considered appropriate by the Supreme Court, the 79426  
foregoing appropriation item 005605, Attorney Services, may be 79427  
used to compensate employees and to fund appropriate activities of 79428  
the following offices established by the Supreme Court: the Office 79429  
of Disciplinary Counsel, the Board of Commissioners on Grievances 79430

and Discipline, the Clients' Security Fund, and the Attorney Services Division. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 4C80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 4C80 shall be credited to the fund.

COURT INTERPRETER CERTIFICATION

The Court Interpreter Certification Fund (Fund 5HT0) shall consist of money received by the Supreme Court (The Judiciary) pursuant to Rules 80 through 87 of the Rules of Superintendence for the Courts of Ohio. The foregoing appropriation item 005617, Court Interpreter Certification, shall be used to provide training, to provide the written examination, and to pay language experts to rate, or grade, the oral examinations of those applying to become certified court interpreters. If it is determined by the Administrative Director that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5HT0 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 5HT0 shall be credited to the fund.

GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T80) shall consist of grants and other money awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Division of Criminal Justice Services, or other entities. The foregoing appropriation item 005609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court

that additional appropriations are necessary, the amounts are 79462  
hereby appropriated. 79463

No money in Fund 5T80 shall be transferred to any other fund 79464  
by the Director of Budget and Management or the Controlling Board. 79465  
However, interest earned on money in Fund 5T80 shall be credited 79466  
or transferred to the General Revenue Fund. 79467

SUPREME COURT ADMISSIONS 79468

The foregoing appropriation item 005606, Supreme Court 79469  
Admissions, shall be used to compensate Supreme Court employees 79470  
who are primarily responsible for administering the attorney 79471  
admissions program under the Rules for the Government of the Bar 79472  
of Ohio, and to fund any other activities considered appropriate 79473  
by the court. Moneys shall be deposited into the Supreme Court 79474  
Admissions Fund (Fund 6A80) under the Supreme Court Rules for the 79475  
Government of the Bar of Ohio. If it is determined by the 79476  
Administrative Director of the Supreme Court that additional 79477  
appropriations are necessary, the amounts are hereby appropriated. 79478

No money in Fund 6A80 shall be transferred to any other fund 79479  
by the Director of Budget and Management or the Controlling Board. 79480  
Interest earned on money in Fund 6A80 shall be credited to the 79481  
fund. 79482

**Sec. 323.10.** LSC LEGISLATIVE SERVICE COMMISSION 79483

General Revenue Fund 79484

GRF 035321 Operating Expenses \$ 15,117,700 \$ 15,117,700 79485

GRF 035402 Legislative Fellows \$ 1,022,120 \$ 1,022,120 79486

GRF 035405 Correctional \$ 438,900 \$ 438,900 79487

Institution Inspection

Committee

GRF 035407 Legislative Task Force \$ 590,000 \$ 750,000 79488

on Redistricting

|                              |                      |                       |    |            |    |                       |       |
|------------------------------|----------------------|-----------------------|----|------------|----|-----------------------|-------|
| GRF                          | 035409               | National Associations | \$ | 460,560    | \$ | 460,560               | 79489 |
| GRF                          | 035410               | Legislative           | \$ | 3,661,250  | \$ | <del>3,661,250</del>  | 79490 |
|                              |                      | Information Systems   |    |            |    | <u>3,861,250</u>      |       |
| GRF                          | 035411               | Ohio Constitutional   | \$ | 50,000     | \$ | 50,000                | 79491 |
|                              |                      | Modernization         |    |            |    |                       |       |
|                              |                      | Commission            |    |            |    |                       |       |
| TOTAL GRF                    | General Revenue Fund |                       | \$ | 21,340,530 | \$ | <del>21,500,530</del> | 79492 |
|                              |                      |                       |    |            |    | <u>21,700,530</u>     |       |
| General Services Fund Group  |                      |                       |    |            |    |                       | 79493 |
| 4100                         | 035601               | Sale of Publications  | \$ | 10,000     | \$ | 10,000                | 79494 |
| 4F60                         | 035603               | Legislative Budget    | \$ | 200,000    | \$ | 200,000               | 79495 |
|                              |                      | Services              |    |            |    |                       |       |
| 5EF0                         | 035607               | Legislative Agency    | \$ | 30,000     | \$ | 30,000                | 79496 |
|                              |                      | Telephone Usage       |    |            |    |                       |       |
| TOTAL GSF                    | General Services     |                       |    |            |    |                       | 79497 |
| Fund Group                   |                      |                       | \$ | 240,000    | \$ | 240,000               | 79498 |
| TOTAL ALL BUDGET FUND GROUPS |                      |                       | \$ | 21,580,530 | \$ | <del>21,740,530</del> | 79499 |
|                              |                      |                       |    |            |    | <u>21,940,530</u>     |       |

OPERATING EXPENSES 79500

On July 1, 2011, or as soon as possible thereafter, the 79501  
 Director of the Legislative Service Commission may certify to the 79502  
 Director of Budget and Management the amount of the unexpended, 79503  
 unencumbered balance of the foregoing appropriation item 035321, 79504  
 Operating Expenses, at the end of fiscal year 2011 to be 79505  
 reappropriated to fiscal year 2012. The amount certified is hereby 79506  
 reappropriated to the same appropriation item for fiscal year 79507  
 2012. 79508

On July 1, 2012, or as soon as possible thereafter, the 79509  
 Director of the Legislative Service Commission may certify to the 79510  
 Director of Budget and Management the amount of the unexpended, 79511  
 unencumbered balance of the foregoing appropriation item 035321, 79512  
 Operating Expenses, at the end of fiscal year 2012 to be 79513

reappropriated to fiscal year 2013. The amount certified is hereby 79514  
reappropriated to the same appropriation item for fiscal year 79515  
2013. 79516

LEGISLATIVE TASK FORCE ON REDISTRICTING 79517

An amount equal to the unexpended, unencumbered portion of 79518  
the foregoing appropriation item 035407, Legislative Task Force on 79519  
Redistricting, at the end of fiscal year 2011 is hereby 79520  
reappropriated to the Legislative Service Commission for the same 79521  
purpose for fiscal year 2012. 79522

An amount equal to the unexpended, unencumbered portion of 79523  
the foregoing appropriation item 035407, Legislative Task Force on 79524  
Redistricting, at the end of fiscal year 2012 is hereby 79525  
reappropriated to the Legislative Service Commission for the same 79526  
purpose for fiscal year 2013. 79527

LEGISLATIVE INFORMATION SYSTEMS 79528

On July 1, 2011, or as soon as possible thereafter, the 79529  
Director of the Legislative Service Commission may certify to the 79530  
Director of Budget and Management the amount of the unexpended, 79531  
unencumbered balance of the foregoing appropriation item 035410, 79532  
Legislative Information Systems, at the end of fiscal year 2011 to 79533  
be reappropriated to fiscal year 2012. The amount certified is 79534  
hereby reappropriated to the same appropriation item for fiscal 79535  
year 2012. 79536

On July 1, 2012, or as soon as possible thereafter, the 79537  
Director of the Legislative Service Commission may certify to the 79538  
Director of Budget and Management the amount of the unexpended, 79539  
unencumbered balance of the foregoing appropriation item 035410, 79540  
Legislative Information Systems, at the end of fiscal year 2012 to 79541  
be reappropriated to fiscal year 2013. The amount certified is 79542  
hereby reappropriated to the same appropriation item for fiscal 79543  
year 2013. 79544

|  |    |            |               |       |
|--|----|------------|---------------|-------|
| OHIO CONSTITUTIONAL MODERNIZATION COMMISSION                     |    |            |               | 79545 |
| The foregoing appropriation item 035411, Ohio Constitutional     |    |            |               | 79546 |
| Modernization Commission, shall be used to support the operation |    |            |               | 79547 |
| and expenses of the Ohio Constitutional Modernization Commission |    |            |               | 79548 |
| under sections 103.61 to 103.67 of the Revised Code.             |    |            |               | 79549 |
| <b>Sec. 327.10. LCO LIQUOR CONTROL COMMISSION</b>                |    |            |               | 79550 |
| <u>State Special Revenue Fund Group</u>                          |    |            |               | 79551 |
| 5LP0 970601 <u>Commission Operating</u>                          | \$ | 0          | \$ 754,146    | 79552 |
| <u>Expense</u>   |    |            |               |       |
| <u>TOTAL SSR State Special Revenue</u>                           | \$ | 0          | \$ 754,146    | 79553 |
| <u>Fund Group</u>  |    |            |               |       |
| Liquor Control Fund Group  |    |            |               | 79554 |
| 7043 970321 Operating Expenses                                   | \$ | 753,933    | \$ 754,146 0  | 79555 |
| TOTAL LCF Liquor Control Fund Group                              | \$ | 753,933    | \$ 754,146 0  | 79556 |
| TOTAL ALL BUDGET FUND GROUPS                                     | \$ | 753,933    | \$ 754,146    | 79557 |
| <b>Sec. 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD</b>        |    |            |               | 79559 |
| General Services Fund Group                                      |    |            |               | 79560 |
| 4K90 915604 Operating Expenses                                   | \$ | 493,641    | \$ 493,856 0  | 79561 |
| TOTAL GSF General Services                                       |    |            |               | 79562 |
| Fund Group   | \$ | 493,641    | \$ 493,856 0  | 79563 |
| TOTAL ALL BUDGET FUND GROUPS                                     | \$ | 493,641    | \$ 493,856 0  | 79564 |
| <b>Sec. 337.10. DMH DEPARTMENT OF MENTAL HEALTH</b>              |    |            |               | 79566 |
| General Revenue Fund   |    |            |               | 79567 |
| GRF 332401 Forensic Services                                     | \$ | 3,244,251  | \$ 3,244,251  | 79568 |
| GRF 333321 Central   | \$ | 16,000,000 | \$ 16,000,000 | 79569 |
| Administration   |    |            |               |       |
| GRF 333402 Resident Trainees                                     | \$ | 450,000    | \$ 450,000    | 79570 |
| GRF 333403 Pre-Admission   | \$ | 486,119    | \$ 486,119    | 79571 |

|           |        |                                    |    |             |                |                              |
|-----------|--------|------------------------------------|----|-------------|----------------|------------------------------|
|           |        | Screening Expenses                 |    |             | <u>286,119</u> |                              |
| GRF       | 333415 | Lease-Rental Payments              | \$ | 18,394,250  | \$             | <del>19,907,900</del> 79572  |
|           |        |                                    |    |             |                | <u>17,907,900</u>            |
| GRF       | 333416 | Research Program                   | \$ | 421,724     | \$             | 421,998 79573                |
|           |        | Evaluation                         |    |             |                |                              |
| GRF       | 334412 | Hospital Services                  | \$ | 194,918,888 | \$             | <del>192,051,209</del> 79574 |
|           |        |                                    |    |             |                | <u>191,051,209</u>           |
| GRF       | 334506 | Court Costs                        | \$ | 584,210     | \$             | 584,210 79575                |
| GRF       | 335405 | Family & Children                  | \$ | 1,386,000   | \$             | 1,386,000 79576              |
|           |        | First                              |    |             |                |                              |
| GRF       | 335419 | Community Medication               | \$ | 8,963,818   | \$             | 8,963,818 79577              |
|           |        | Subsidy                            |    |             |                |                              |
| GRF       | 335501 | Mental Health                      | \$ | 186,400,000 | \$             | 0 79578                      |
|           |        | Medicaid Match                     |    |             |                |                              |
| GRF       | 335505 | Local Mental Health                | \$ | 49,963,776  | \$             | <del>59,087,955</del> 79579  |
|           |        | Systems of Care                    |    |             |                | <u>62,087,955</u>            |
| GRF       | 335506 | Residential State                  | \$ | 4,702,875   | \$             | 4,702,875 79580              |
|           |        | Supplement                         |    |             |                |                              |
| TOTAL GRF |        | General Revenue Fund               | \$ | 485,915,911 | \$             | <del>307,286,335</del> 79581 |
|           |        |                                    |    |             |                | <u>307,086,335</u>           |
|           |        | General Services Fund Group        |    |             |                | 79582                        |
| 1490      | 333609 | Central Office                     | \$ | 1,343,190   | \$             | 1,343,190 79583              |
|           |        | Operating                          |    |             |                |                              |
| 1490      | 334609 | Hospital - Operating               | \$ | 28,190,000  | \$             | 28,190,000 79584             |
|           |        | Expenses                           |    |             |                |                              |
| 1500      | 334620 | Special Education                  | \$ | 150,000     | \$             | 150,000 79585                |
| 4P90      | 335604 | Community Mental                   | \$ | 4,061,100   | \$             | 250,000 79586                |
|           |        | Health Projects                    |    |             |                |                              |
| 1510      | 336601 | Office of Support                  | \$ | 129,770,770 | \$             | <del>129,779,822</del> 79587 |
|           |        | Services                           |    |             |                | <u>127,297,130</u>           |
| TOTAL GSF |        | General Services Fund              | \$ | 163,515,060 | \$             | <del>159,713,012</del> 79588 |
|           |        | Group                              |    |             |                | <u>157,230,320</u>           |
|           |        | Federal Special Revenue Fund Group |    |             |                | 79589                        |

|   |        |   |    |             |    |            |       |
|---|--------|---|----|-------------|----|------------|-------|
| 3240  | 333605 | Medicaid/Medicare   | \$ | 154,500     | \$ | 154,500    | 79590 |
| 3A60  | 333608 | Federal Miscellaneous                                       | \$ | 140,000     | \$ | 140,000    | 79591 |
| 3A70  | 333612 | Social Services Block<br>Grant                              | \$ | 50,000      | \$ | 50,000     | 79592 |
| 3A80  | 333613 | Federal Grant -<br>Administration                           | \$ | 4,717,000   | \$ | 4,717,000  | 79593 |
| 3A90  | 333614 | Mental Health Block<br>Grant -<br>Administration            | \$ | 748,470     | \$ | 748,470    | 79594 |
| 3B10  | 333635 | Community Medicaid<br>Expansion                             | \$ | 13,691,682  | \$ | 13,691,682 | 79595 |
| 3240  | 334605 | Medicaid/Medicare   | \$ | 28,200,000  | \$ | 28,200,000 | 79596 |
| 3A60  | 334608 | Federal Miscellaneous                                       | \$ | 200,000     | \$ | 200,000    | 79597 |
| 3A80  | 334613 | Federal Letter of<br>Credit                                 | \$ | 200,000     | \$ | 200,000    | 79598 |
| 3A60  | 335608 | Federal Miscellaneous                                       | \$ | 2,170,000   | \$ | 2,170,000  | 79599 |
| 3A70  | 335612 | Social Services Block<br>Grant                              | \$ | 8,400,000   | \$ | 8,400,000  | 79600 |
| 3A80  | 335613 | Federal Grant -<br>Community Mental<br>Health Board Subsidy | \$ | 2,500,000   | \$ | 2,500,000  | 79601 |
| 3A90  | 335614 | Mental Health Block<br>Grant                                | \$ | 14,200,000  | \$ | 14,200,000 | 79602 |
| 3B10  | 335635 | Community Medicaid<br>Expansion                             | \$ | 346,200,000 | \$ | 0          | 79603 |
| TOTAL FED Federal Special Revenue<br>Fund Group |        |   | \$ | 421,571,652 | \$ | 75,371,652 | 79604 |
| State Special Revenue Fund Group                |        |   |    |             |    |            | 79605 |
| 2320  | 333621 | Family and Children<br>First Administration                 | \$ | 448,286     | \$ | 432,197    | 79606 |
| 4850  | 333632 | Mental Health<br>Operating                                  | \$ | 134,233     | \$ | 134,233    | 79607 |
| 4X50  | 333607 | Behavioral Health   | \$ | 3,000,624   | \$ | 3,000,624  | 79608 |

|                              |               |   |           |               |           |                        |       |
|------------------------------|---------------|---|-----------|---------------|-----------|------------------------|-------|
|                              |               | Medicaid Services                                       |           |               |           |                        |       |
| 5V20                         | 333611        | Non-Federal   | \$        | 100,000       | \$        | 100,000                | 79609 |
|                              |               | Miscellaneous   |           |               |           |                        |       |
| 4850                         | 334632        | Mental Health   | \$        | 2,477,500     | \$        | 2,477,500              | 79610 |
|                              |               | Operating   |           |               |           |                        |       |
| 5AU0                         | 335615        | Behavioral Healthcare                                   | \$        | 6,690,000     | \$        | 6,690,000              | 79611 |
| 6320                         | 335616        | Community Capital                                       | \$        | 350,000       | \$        | 350,000                | 79612 |
|                              |               | Replacement   |           |               |           |                        |       |
| TOTAL SSR                    |               | State Special Revenue                                   | \$        | 13,200,643    | \$        | 13,184,554             | 79613 |
|                              |               | Fund Group  |           |               |           |                        |       |
| TOTAL ALL BUDGET FUND GROUPS |               |   | \$        | 1,084,203,266 | \$        | <del>555,555,553</del> | 79614 |
|                              |               |   |           |               |           | <u>552,872,861</u>     |       |
|                              |               | <b>Sec. 343.10. DNR DEPARTMENT OF NATURAL RESOURCES</b> |           |               |           |                        | 79616 |
|                              |               | General Revenue Fund                                    |           |               |           |                        | 79617 |
| GRF                          | 725401        | Wildlife-GRF Central                                    | \$        | 1,800,000     | \$        | 1,800,000              | 79618 |
|                              |               | Support   |           |               |           |                        |       |
| GRF                          | 725413        | Lease Rental Payments                                   | \$        | 20,568,600    | \$        | 19,734,700             | 79619 |
| GRF                          | 725456        | Canal Lands   | \$        | 135,000       | \$        | 135,000                | 79620 |
| GRF                          | 725502        | Soil and Water  | \$        | 2,900,000     | \$        | 2,900,000              | 79621 |
|                              |               | Districts   |           |               |           |                        |       |
| <u>GRF</u>                   | <u>725505</u> | <u>Healthy Lake Erie Fund</u>                           | <u>\$</u> | <u>0</u>      | <u>\$</u> | <u>3,350,000</u>       | 79622 |
| GRF                          | 725903        | Natural Resources                                       | \$        | 5,375,300     | \$        | 25,209,100             | 79623 |
|                              |               | General Obligation                                      |           |               |           |                        |       |
|                              |               | Debt Service  |           |               |           |                        |       |
| GRF                          | 727321        | Division of Forestry                                    | \$        | 4,878,338     | \$        | 4,880,000              | 79624 |
| GRF                          | 729321        | Office of Information                                   | \$        | 194,118       | \$        | 197,117                | 79625 |
|                              |               | Technology  |           |               |           |                        |       |
| GRF                          | 730321        | Division of Parks and                                   | \$        | 30,000,000    | \$        | 30,000,000             | 79626 |
|                              |               | Recreation  |           |               |           |                        |       |
| GRF                          | 736321        | Division of   | \$        | 3,024,459     | \$        | <del>3,025,078</del>   | 79627 |
|                              |               | Engineering   |           |               |           | <u>2,995,078</u>       |       |
| GRF                          | 737321        | Division of Soil and                                    | \$        | 4,982,961     | \$        | 4,983,356              | 79628 |

|            |        |                                    |    |            |    |                            |       |
|------------|--------|------------------------------------|----|------------|----|----------------------------|-------|
|            |        | Water Resources                    |    |            |    |                            |       |
| GRF        | 741321 | Division of Natural                | \$ | 1,200,000  | \$ | 1,200,000                  | 79629 |
|            |        | Areas and Preserves                |    |            |    |                            |       |
| TOTAL GRF  |        | General Revenue Fund               | \$ | 75,058,776 | \$ | <del>94,064,351</del>      | 79630 |
|            |        |                                    |    |            |    | <u>97,384,351</u>          |       |
|            |        | General Services Fund Group        |    |            |    |                            | 79631 |
| 1550       | 725601 | Departmental Projects              | \$ | 3,365,651  | \$ | <del>2,725,484</del>       | 79632 |
|            |        |                                    |    |            |    | <u>2,512,977</u>           |       |
| 1570       | 725651 | Central Support                    | \$ | 5,854,167  | \$ | 5,857,800                  | 79633 |
|            |        | Indirect                           |    |            |    |                            |       |
| 2040       | 725687 | Information Services               | \$ | 4,659,276  | \$ | 4,643,835                  | 79634 |
| 2070       | 725690 | Real Estate Services               | \$ | 50,000     | \$ | 50,000                     | 79635 |
| 2230       | 725665 | Law Enforcement                    | \$ | 2,106,776  | \$ | 2,126,432                  | 79636 |
|            |        | Administration                     |    |            |    |                            |       |
| 2270       | 725406 | Parks Projects                     | \$ | 436,500    | \$ | 436,500                    | 79637 |
|            |        | Personnel                          |    |            |    |                            |       |
| 4300       | 725671 | Canal Lands                        | \$ | 907,618    | \$ | <del>907,879</del>         | 79638 |
|            |        |                                    |    |            |    | <u>883,879</u>             |       |
| 4D50       | 725618 | Recycled Materials                 | \$ | 50,000     | \$ | <del>50,000</del> <u>0</u> | 79639 |
| 4S90       | 725622 | NatureWorks Personnel              | \$ | 400,358    | \$ | 400,358                    | 79640 |
| 4X80       | 725662 | Water Resources                    | \$ | 138,011    | \$ | 138,005                    | 79641 |
|            |        | Council                            |    |            |    |                            |       |
| 5100       | 725631 | Maintenance -                      | \$ | 303,611    | \$ | 303,611                    | 79642 |
|            |        | State-owned                        |    |            |    |                            |       |
|            |        | Residences                         |    |            |    |                            |       |
| 5160       | 725620 | Water Management                   | \$ | 2,541,565  | \$ | 2,559,292                  | 79643 |
| 6350       | 725664 | Fountain Square                    | \$ | 3,544,623  | \$ | <del>3,548,445</del>       | 79644 |
|            |        | Facilities Management              |    |            |    | <u>3,473,413</u>           |       |
| 6970       | 725670 | Submerged Lands                    | \$ | 836,162    | \$ | 848,546                    | 79645 |
| TOTAL GSF  |        | General Services                   |    |            |    |                            | 79646 |
| Fund Group |        |                                    | \$ | 25,194,318 | \$ | <del>24,596,187</del>      | 79647 |
|            |        |                                    |    |            |    | <u>24,234,648</u>          |       |
|            |        | Federal Special Revenue Fund Group |    |            |    |                            | 79648 |

|                                   |        |  |    |            |    |            |       |
|-----------------------------------|--------|--|----|------------|----|------------|-------|
| 3320                              | 725669 | Federal Mine Safety Grant                  | \$ | 258,102    | \$ | 258,102    | 79649 |
| 3B30                              | 725640 | Federal Forest Pass-Thru                   | \$ | 600,000    | \$ | 600,000    | 79650 |
| 3B40                              | 725641 | Federal Flood Pass-Thru                    | \$ | 600,000    | \$ | 600,000    | 79651 |
| 3B50                              | 725645 | Federal Abandoned Mine Lands               | \$ | 21,007,667 | \$ | 21,207,667 | 79652 |
| 3B60                              | 725653 | Federal Land and Water Conservation Grants | \$ | 1,150,000  | \$ | 1,150,000  | 79653 |
| 3B70                              | 725654 | Reclamation - Regulatory                   | \$ | 3,200,000  | \$ | 3,200,000  | 79654 |
| 3P10                              | 725632 | Geological Survey - Federal                | \$ | 692,401    | \$ | 692,401    | 79655 |
| 3P20                              | 725642 | Oil and Gas-Federal                        | \$ | 234,509    | \$ | 234,509    | 79656 |
| 3P30                              | 725650 | Coastal Management - Federal               | \$ | 3,290,633  | \$ | 3,290,633  | 79657 |
| 3P40                              | 725660 | Federal - Soil and Water Resources         | \$ | 1,213,048  | \$ | 1,209,957  | 79658 |
| 3R50                              | 725673 | Acid Mine Drainage Abatement/Treatment     | \$ | 2,025,001  | \$ | 2,025,001  | 79659 |
| 3Z50                              | 725657 | Federal Recreation and Trails              | \$ | 1,850,000  | \$ | 1,850,000  | 79660 |
| TOTAL FED Federal Special Revenue |        |  |    |            |    |            | 79661 |
| Fund Group                        |        |  | \$ | 36,121,361 | \$ | 36,318,270 | 79662 |
| State Special Revenue Fund Group  |        |  |    |            |    |            | 79663 |
| 4J20                              | 725628 | Injection Well Review                      | \$ | 130,899    | \$ | 128,466    | 79664 |
| 4M70                              | 725686 | Wildfire Suppression                       | \$ | 100,000    | \$ | 100,000    | 79665 |
| 4U60                              | 725668 | Scenic Rivers Protection                   | \$ | 100,000    | \$ | 100,000    | 79666 |
| 5090                              | 725602 | State Forest                               | \$ | 7,891,747  | \$ | 7,058,793  | 79667 |
| 5110                              | 725646 | Ohio Geological                            | \$ | 704,777    | \$ | 705,130    | 79668 |

|      |        |                        |    |            |    |                               |       |
|------|--------|------------------------|----|------------|----|-------------------------------|-------|
|      |        | Mapping                |    |            |    |                               |       |
| 5120 | 725605 | State Parks Operations | \$ | 32,284,117 | \$ | 31,550,444                    | 79669 |
| 5140 | 725606 | Lake Erie Shoreline    | \$ | 1,502,654  | \$ | 1,505,983                     | 79670 |
| 5180 | 725643 | Oil and Gas Permit     | \$ | 5,821,970  | \$ | <del>5,623,645</del>          | 79671 |
|      |        | Fees                   |    |            |    | <u>9,823,645</u>              |       |
| 5180 | 725677 | Oil and Gas Well       | \$ | 800,000    | \$ | 800,000                       | 79672 |
|      |        | Plugging               |    |            |    |                               |       |
| 5210 | 725627 | Off-Road Vehicle       | \$ | 143,490    | \$ | 143,490                       | 79673 |
|      |        | Trails                 |    |            |    |                               |       |
| 5220 | 725656 | Natural Areas and      | \$ | 546,580    | \$ | 546,639                       | 79674 |
|      |        | Preserves              |    |            |    |                               |       |
| 5260 | 725610 | Strip Mining           | \$ | 2,000,000  | \$ | 2,000,000                     | 79675 |
|      |        | Administration Fee     |    |            |    |                               |       |
| 5270 | 725637 | Surface Mining         | \$ | 1,940,977  | \$ | 1,941,532                     | 79676 |
|      |        | Administration         |    |            |    |                               |       |
| 5290 | 725639 | Unreclaimed Land Fund  | \$ | 2,004,180  | \$ | 2,004,180                     | 79677 |
| 5310 | 725648 | Reclamation Forfeiture | \$ | 1,423,000  | \$ | <del>1,423,000</del>          | 79678 |
|      |        |                        |    |            |    | <u>500,000</u>                |       |
| 5320 | 725644 | Litter Control and     | \$ | 4,926,730  | \$ | <del>4,911,575</del> <u>0</u> | 79679 |
|      |        | Recycling              |    |            |    |                               |       |
| 5860 | 725633 | Scrap Tire Program     | \$ | 1,497,645  | \$ | <del>1,497,645</del> <u>0</u> | 79680 |
| 5B30 | 725674 | Mining Regulation      | \$ | 28,135     | \$ | 28,135                        | 79681 |
| 5BV0 | 725658 | Heidelberg Water       | \$ | 250,000    | \$ | 250,000                       | 79682 |
|      |        | Quality Lab            |    |            |    |                               |       |
| 5BV0 | 725683 | Soil and Water         | \$ | 8,000,000  | \$ | 8,000,000                     | 79683 |
|      |        | Districts              |    |            |    |                               |       |
| 5CU0 | 725647 | Mine Safety            | \$ | 3,000,000  | \$ | 3,000,000                     | 79684 |
| 5EJ0 | 725608 | Forestry Law           | \$ | 1,000      | \$ | 1,000                         | 79685 |
|      |        | Enforcement            |    |            |    |                               |       |
| 5EK0 | 725611 | Natural Areas &        | \$ | 1,000      | \$ | 1,000                         | 79686 |
|      |        | Preserves Law          |    |            |    |                               |       |
|      |        | Enforcement            |    |            |    |                               |       |
| 5EL0 | 725612 | Wildlife Law           | \$ | 12,000     | \$ | 12,000                        | 79687 |

|            |        |                                    |    |            |    |                       |       |
|------------|--------|------------------------------------|----|------------|----|-----------------------|-------|
|            |        | Enforcement                        |    |            |    |                       |       |
| 5EM0       | 725613 | Park Law Enforcement               | \$ | 34,000     | \$ | 34,000                | 79688 |
| 5EN0       | 725614 | Watercraft Law                     | \$ | 2,500      | \$ | 2,500                 | 79689 |
|            |        | Enforcement                        |    |            |    |                       |       |
| 5HK0       | 725625 | Ohio Nature Preserves              | \$ | 1,000      | \$ | 1,000                 | 79690 |
| 6150       | 725661 | Dam Safety                         | \$ | 925,344    | \$ | 926,028               | 79691 |
| TOTAL SSR  |        | State Special Revenue              |    |            |    |                       | 79692 |
| Fund Group |        |                                    | \$ | 76,073,745 | \$ | <del>74,296,185</del> | 79693 |
|            |        |                                    |    |            |    | <u>71,163,965</u>     |       |
|            |        | Clean Ohio Conservation Fund Group |    |            |    |                       | 79694 |
| 7061       | 725405 | Clean Ohio Operating               | \$ | 300,775    | \$ | 300,775               | 79695 |
| TOTAL CLF  |        | Clean Ohio Conservation            | \$ | 300,775    | \$ | 300,775               | 79696 |
| Fund Group |        |                                    |    |            |    |                       |       |
|            |        | Wildlife Fund Group                |    |            |    |                       | 79697 |
| 5P20       | 725634 | Wildlife Boater                    | \$ | 4,000,000  | \$ | 4,000,000             | 79698 |
|            |        | Angler Administration              |    |            |    |                       |       |
| 7015       | 740401 | Division of Wildlife               | \$ | 52,721,044 | \$ | 51,669,158            | 79699 |
|            |        | Conservation                       |    |            |    |                       |       |
| 8150       | 725636 | Cooperative                        | \$ | 120,449    | \$ | 120,449               | 79700 |
|            |        | Management Projects                |    |            |    |                       |       |
| 8160       | 725649 | Wetlands Habitat                   | \$ | 966,885    | \$ | 966,885               | 79701 |
| 8170       | 725655 | Wildlife Conservation              | \$ | 3,240,000  | \$ | 3,240,000             | 79702 |
|            |        | Checkoff Fund                      |    |            |    |                       |       |
| 8180       | 725629 | Cooperative Fisheries              | \$ | 1,500,000  | \$ | 1,500,000             | 79703 |
|            |        | Research                           |    |            |    |                       |       |
| 8190       | 725685 | Ohio River Management              | \$ | 128,584    | \$ | 128,584               | 79704 |
| TOTAL WLF  |        | Wildlife Fund Group                | \$ | 62,676,962 | \$ | 61,625,076            | 79705 |
|            |        | Waterways Safety Fund Group        |    |            |    |                       | 79706 |
| 7086       | 725414 | Waterways Improvement              | \$ | 5,692,601  | \$ | 5,693,671             | 79707 |
| 7086       | 725418 | Buoy Placement                     | \$ | 52,182     | \$ | 52,182                | 79708 |
| 7086       | 725501 | Waterway Safety                    | \$ | 120,000    | \$ | 120,000               | 79709 |
|            |        | Grants                             |    |            |    |                       |       |

|   |                                  |    |            |    |                        |       |
|---|----------------------------------|----|------------|----|------------------------|-------|
| 7086 725506                               | Watercraft Marine<br>Patrol      | \$ | 576,153    | \$ | 576,153                | 79710 |
| 7086 725513                               | Watercraft<br>Educational Grants | \$ | 366,643    | \$ | 366,643                | 79711 |
| 7086 739401                               | Division of<br>Watercraft        | \$ | 18,040,593 | \$ | 17,552,370             | 79712 |
| TOTAL WSF Waterways Safety Fund           |                                  |    |            |    |                        | 79713 |
| Group                                     |                                  | \$ | 24,848,172 | \$ | 24,361,019             | 79714 |
| Accrued Leave Liability Fund Group        |                                  |    |            |    |                        | 79715 |
| 4M80 725675                               | FOP Contract                     | \$ | 20,219     | \$ | 20,219                 | 79716 |
| TOTAL ALF Accrued Leave                   |                                  |    |            |    |                        | 79717 |
| Liability Fund Group                      |                                  | \$ | 20,219     | \$ | 20,219                 | 79718 |
| Holding Account Redistribution Fund Group |                                  |    |            |    |                        | 79719 |
| R017 725659                               | Performance Cash Bond<br>Refunds | \$ | 296,263    | \$ | 296,263                | 79720 |
| R043 725624                               | Forestry                         | \$ | 2,000,000  | \$ | 2,154,750              | 79721 |
| TOTAL 090 Holding Account                 |                                  |    |            |    |                        | 79722 |
| Redistribution Fund Group                 |                                  | \$ | 2,296,263  | \$ | 2,451,013              | 79723 |
| TOTAL ALL BUDGET FUND GROUPS              |                                  |    |            |    |                        | 79724 |
|   |                                  |    |            |    | <del>318,033,095</del> |       |
|   |                                  |    |            |    | <u>317,859,336</u>     |       |

**Sec. 343.40. LEASE RENTAL PAYMENTS** 79726

The foregoing appropriation item 725413, Lease Rental 79727  
 Payments, shall be used to meet all payments at the times they are 79728  
 required to be made during the period from July 1, 2011, through 79729  
 June 30, 2013, by the Department of Natural Resources pursuant to 79730  
 leases and agreements made under section 154.22 of the Revised 79731  
 Code. These appropriations are the source of funds pledged for 79732  
 bond service charges or obligations issued pursuant to Chapter 79733  
 154. of the Revised Code. 79734

**CANAL LANDS** 79735

The foregoing appropriation item 725456, Canal Lands, shall 79736

be used to transfer funds to the Canal Lands Fund (Fund 4300) to 79737  
provide operating expenses for the State Canal Lands Program. The 79738  
transfer shall be made using an intrastate transfer voucher and 79739  
shall be subject to the approval of the Director of Budget and 79740  
Management. 79741

HEALTHY LAKE ERIE FUND 79742

Of the foregoing appropriation item 725505, Healthy Lake Erie 79743  
Fund, up to \$3,000,000 shall be used by the Director of Natural 79744  
Resources, in consultation with the Director of Agriculture and 79745  
the Director of Environmental Protection, to implement 79746  
nonstatutory recommendations of the Agriculture Nutrients and 79747  
Water Quality Working Group. The Director shall give priority to 79748  
recommendations that encourage farmers to adopt agricultural 79749  
production guidelines commonly known as 4R nutrient stewardship 79750  
practices. Funds may also be used for enhanced soil testing in the 79751  
Western Lake Erie Basin, monitoring the quality of Lake Erie and 79752  
its tributaries, and conducting research and establishing pilot 79753  
projects that have the goal of reducing algae blooms in Lake Erie. 79754

Of the foregoing appropriation item 725505, Healthy Lake Erie 79755  
Fund, up to \$350,000 in fiscal year 2013 may be used by the 79756  
Director of Natural Resources for monitoring inland lakes and 79757  
stream water quality. 79758

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 79759

The foregoing appropriation item 725903, Natural Resources 79760  
General Obligation Debt Service, shall be used to pay all debt 79761  
service and related financing costs during the period July 1, 79762  
2011, through June 30, 2013, on obligations issued under sections 79763  
151.01 and 151.05 of the Revised Code. 79764

**Sec. 365.10.** PUC PUBLIC UTILITIES COMMISSION OF OHIO 79765

General Services Fund Group 79766

|                                    |        |   |    |            |    |  |       |
|------------------------------------|--------|---|----|------------|----|--|-------|
| 5F60                               | 870622 | Utility and Railroad<br>Regulation                    | \$ | 30,637,234 | \$ | 31,638,708                                 | 79767 |
| 5F60                               | 870624 | NARUC/NRRI Subsidy                                    | \$ | 158,000    | \$ | <del>158,000</del><br><u>100,000</u>       | 79768 |
| 5F60                               | 870625 | Motor Transportation<br>Regulation                    | \$ | 4,976,641  | \$ | <del>5,971,218</del> <u>0</u>              | 79769 |
| 5Q50                               | 870626 | Telecommunications<br>Relay Service                   | \$ | 5,000,000  | \$ | 5,000,000                                  | 79770 |
| TOTAL GSF General Services         |        |   |    |            |    |  | 79771 |
| Fund Group                         |        |   | \$ | 40,771,875 | \$ | <del>42,767,926</del><br><u>36,738,708</u> | 79772 |
| Federal Special Revenue Fund Group |        |   |    |            |    |  | 79773 |
| 3330                               | 870601 | Gas Pipeline Safety                                   | \$ | 597,959    | \$ | 597,959                                    | 79774 |
| 3500                               | 870608 | Motor Carrier Safety                                  | \$ | 7,351,660  | \$ | 7,351,660                                  | 79775 |
| 3CU0                               | 870627 | Electric Market<br>Modeling                           | \$ | 91,183     | \$ | 0  | 79776 |
| 3EA0                               | 870630 | Energy Assurance<br>Planning                          | \$ | 384,000    | \$ | 384,000                                    | 79777 |
| 3ED0                               | 870631 | State Regulators<br>Assistance                        | \$ | 231,824    | \$ | 231,824                                    | 79778 |
| 3V30                               | 870604 | Commercial Vehicle<br>Information<br>Systems/Networks | \$ | 100,000    | \$ | 100,000                                    | 79779 |
| TOTAL FED Federal Special Revenue  |        |   |    |            |    |  | 79780 |
| Fund Group                         |        |   | \$ | 8,756,626  | \$ | 8,665,443                                  | 79781 |
| State Special Revenue Fund Group   |        |   |    |            |    |  | 79782 |
| 4A30                               | 870614 | Grade Crossing<br>Protection<br>Devices-State         | \$ | 1,347,357  | \$ | 1,347,357                                  | 79783 |
| 4L80                               | 870617 | Pipeline Safety-State                                 | \$ | 181,992    | \$ | 181,992                                    | 79784 |
| 4S60                               | 870618 | Hazardous Material<br>Registration                    | \$ | 450,395    | \$ | <del>450,395</del> <u>0</u>                | 79785 |

|             |               |                               |           |            |           |                       |          |       |
|-------------|---------------|-------------------------------|-----------|------------|-----------|-----------------------|----------|-------|
| 4S60        | 870621        | Hazardous Materials           | \$        | 373,346    | \$        | <del>373,346</del>    | <u>0</u> | 79786 |
|             |               | Base State                    |           |            |           |                       |          |       |
|             |               | Registration                  |           |            |           |                       |          |       |
| 4U80        | 870620        | Civil Forfeitures             | \$        | 277,347    | \$        | <del>277,496</del>    | <u>0</u> | 79787 |
| 5590        | 870605        | Public Utilities              | \$        | 3,880      | \$        | <del>3,880</del>      | <u>0</u> | 79788 |
|             |               | Territorial                   |           |            |           |                       |          |       |
|             |               | Administration                |           |            |           |                       |          |       |
| 5600        | 870607        | Special Assessment            | \$        | 97,000     | \$        | <del>97,000</del>     | <u>0</u> | 79789 |
| 5610        | 870606        | Power Siting Board            | \$        | 631,508    | \$        | <del>631,618</del>    |          | 79790 |
|             |               |                               |           |            |           | <u>581,618</u>        |          |       |
| 5BP0        | 870623        | Wireless 9-1-1                | \$        | 36,440,000 | \$        | <del>18,220,000</del> |          | 79791 |
|             |               | Administration                |           |            |           | <u>17,757,250</u>     |          |       |
| 5HD0        | 870629        | Radioactive Waste             | \$        | 98,800     | \$        | <del>98,800</del>     | <u>0</u> | 79792 |
|             |               | Transportation                |           |            |           |                       |          |       |
| <u>5LT0</u> | <u>870640</u> | <u>Intrastate</u>             | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>180,000</u>        |          | 79793 |
|             |               | Registration                  |           |            |           |                       |          |       |
| <u>5LT0</u> | <u>870641</u> | <u>Unified Carrier</u>        | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>420,000</u>        |          | 79794 |
|             |               | Registration                  |           |            |           |                       |          |       |
| <u>5LT0</u> | <u>870642</u> | <u>Hazardous Materials</u>    | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>823,741</u>        |          | 79795 |
|             |               | Registration                  |           |            |           |                       |          |       |
| <u>5LT0</u> | <u>870643</u> | <u>Nonhazardous Materials</u> | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>277,496</u>        |          | 79796 |
|             |               | Civil Forfeiture              |           |            |           |                       |          |       |
| <u>5LT0</u> | <u>870644</u> | <u>Hazardous Materials</u>    | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>898,800</u>        |          | 79797 |
|             |               | Civil Forfeiture              |           |            |           |                       |          |       |
| <u>5LT0</u> | <u>870645</u> | <u>Motor Carrier</u>          | <u>\$</u> | <u>0</u>   | <u>\$</u> | <u>5,401,318</u>      |          | 79798 |
|             |               | Enforcement                   |           |            |           |                       |          |       |
| 6380        | 870611        | Biofuels/Municipal            | \$        | 570        | \$        | 0                     |          | 79799 |
|             |               | Waste Technology              |           |            |           |                       |          |       |
| 6610        | 870612        | Hazardous Materials           | \$        | 898,800    | \$        | <del>898,800</del>    | <u>0</u> | 79800 |
|             |               | Transportation                |           |            |           |                       |          |       |
| TOTAL       | SSR           | State Special Revenue         |           |            |           |                       |          | 79801 |
| Fund Group  |               |                               | \$        | 40,800,995 | \$        | <del>22,580,684</del> |          | 79802 |
|             |               |                               |           |            |           | <u>27,869,572</u>     |          |       |



Transportation Enforcement Fund (Fund 4U80) is hereby abolished. 79834

On July 1, 2012, or as soon as practicable thereafter, the 79835  
Director of Budget and Management shall transfer the cash balance 79836  
in the Radioactive Waste Transportation Fund (Fund 5HD0) to the 79837  
Public Utilities Transportation Safety Fund (Fund 5LT0). The 79838  
Director shall cancel any existing encumbrances against 79839  
appropriation item 870629, Radioactive Waste Transportation, and 79840  
reestablish them against appropriation item 870645, Motor Carrier 79841  
Enforcement. The amounts of the reestablished encumbrances are 79842  
hereby appropriated. Upon completion of these transfers, the 79843  
Radioactive Waste Transportation Fund (Fund 5HD0) is hereby 79844  
abolished. 79845

On July 1, 2012, or as soon as practicable thereafter, the 79846  
Director of Budget and Management shall transfer the cash balance 79847  
in the Hazardous Materials Transportation Fund (Fund 6610) to the 79848  
Public Utilities Transportation Safety Fund (Fund 5LT0). The 79849  
Director shall cancel any existing encumbrances against 79850  
appropriation item 870612, Hazardous Materials Transportation, and 79851  
reestablish them against appropriation item 870644, Hazardous 79852  
Materials Civil Forfeitures. The amounts of the reestablished 79853  
encumbrances are hereby appropriated. Upon completion of these 79854  
transfers, the Hazardous Materials Transportation Fund (Fund 6610) 79855  
is hereby abolished. 79856

On July 1, 2012, or as soon as practicable thereafter, the 79857  
Director of Budget and Management shall transfer cash in an amount 79858  
up to \$21,000,000 from the Public Utilities Fund (Fund 5F60) to 79859  
the Public Utilities Transportation Safety Fund (Fund 5LT0). The 79860  
Director shall cancel any existing encumbrances against 79861  
appropriation item 870625, Motor Transportation Regulation, and 79862  
reestablish encumbrances or parts of encumbrances as needed in the 79863  
fiscal year in the appropriate fund and appropriation item for the 79864  
same purpose and to the same vendor. The amounts of the 79865

reestablished encumbrances are hereby appropriated. 79866

The fund created by division (E) of section 4921.21 of the 79867  
Revised Code is the same fund, with the same name, as the Motor 79868  
Carrier Safety Fund (Fund 3500). 79869

The fund created by division (D) of section 4921.21 of the 79870  
Revised Code is the same fund, with the same name, as the 79871  
Commercial Vehicle Transportation Systems Fund (Fund 3V30). 79872

**Sec. 367.10. PWC PUBLIC WORKS COMMISSION** 79873

General Revenue Fund 79874

|            |                      |               |               |       |
|------------|----------------------|---------------|---------------|-------|
| GRF 150904 | Conservation General | \$ 21,953,000 | \$ 29,297,300 | 79875 |
|            | Obligation Debt      |               |               |       |
|            | Service              |               |               |       |

|            |                    |                |                        |       |
|------------|--------------------|----------------|------------------------|-------|
| GRF 150907 | State Capital      | \$ 106,770,600 | <del>215,571,100</del> | 79876 |
|            | Improvements       |                | <u>208,571,100</u>     |       |
|            | General Obligation |                |                        | 79877 |
|            | Debt Service       |                |                        |       |

|                                |                |                           |       |
|--------------------------------|----------------|---------------------------|-------|
| TOTAL GRF General Revenue Fund | \$ 128,723,600 | \$ <del>244,868,400</del> | 79878 |
|                                |                | <u>237,868,400</u>        |       |

Clean Ohio Conservation Fund Group 79879

|             |                      |            |            |       |
|-------------|----------------------|------------|------------|-------|
| 7056 150403 | Clean Ohio Operating | \$ 300,000 | \$ 288,980 | 79880 |
|             | Expenses             |            |            |       |

|                                   |            |            |       |
|-----------------------------------|------------|------------|-------|
| TOTAL 056 Clean Ohio Conservation | \$ 300,000 | \$ 288,980 | 79881 |
|-----------------------------------|------------|------------|-------|

Fund Group

|                              |                |                           |       |
|------------------------------|----------------|---------------------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ 129,023,600 | \$ <del>245,157,380</del> | 79882 |
|                              |                | <u>238,157,380</u>        |       |

**CONSERVATION GENERAL OBLIGATION DEBT SERVICE** 79883

The foregoing appropriation item 150904, Conservation General 79884  
Obligation Debt Service, shall be used to pay all debt service and 79885  
related financing costs during the period from July 1, 2011, 79886  
through June 30, 2013, at the times they are required to be made 79887

for obligations issued under sections 151.01 and 151.09 of the Revised Code. 79888  
79889

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 79890

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. 79891  
79892  
79893  
79894  
79895  
79896

CLEAN OHIO OPERATING EXPENSES 79897

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. 79898  
79899  
79900  
79901

REIMBURSEMENT TO THE GENERAL REVENUE FUND 79902

(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: 79903  
79904  
79905

(1) The total amount disbursed from appropriation item 700409, Farmland Preservation, during the FY 2012-FY 2013 biennium; and 79906  
79907  
79908

(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. 79909  
79910  
79911  
79912

(B) If the Director of Budget and Management determines under division (A)(2) of this section that there are excess interest earnings, the Director of Budget and Management shall, on or before July 15, 2013, transfer the excess interest earnings to the General Revenue Fund in an amount equal to the total amount 79913  
79914  
79915  
79916  
79917

disbursed under division (A)(1) of this section from the Clean Ohio Conservation Fund (Fund 7056). 79918  
79919

**Sec. 369.10. RAC STATE RACING COMMISSION** 79920

State Special Revenue Fund Group 79921

5620 875601 Thoroughbred Race \$ 1,796,328 \$ 1,696,456 79922  
Fund

5630 875602 Standardbred \$ 1,697,418 \$ 1,697,452 79923  
Development Fund

5640 875603 Quarter Horse \$ 1,000 \$ 1,000 79924  
Development Fund

5650 875604 Racing Commission \$ 3,095,331 \$ 2,934,178 79925  
Operating

5C40 875607 Simulcast Horse \$ 12,000,000 \$ 12,000,000 79926  
Racing Purse

5JK0 875610 Racing Commission \$ 339,919 \$ 8,169,547 79927  
Fund

TOTAL SSR State Special Revenue 79928

Fund Group \$ ~~18,590,078~~ \$ ~~18,329,087~~ 79929  
18,929,996 26,498,633

Holding Account Redistribution Fund Group 79930

R021 875605 Bond Reimbursements \$ 100,000 \$ 100,000 79931

TOTAL 090 Holding Account 79932

Redistribution

Fund Group \$ 100,000 \$ 100,000 79933

TOTAL ALL BUDGET FUND GROUPS \$ ~~18,690,078~~ \$ ~~18,429,087~~ 79934  
19,029,996 26,598,633

**Sec. 371.10. BOR BOARD OF REGENTS** 79936

General Revenue Fund 79937

GRF 235321 Operating Expenses \$ 2,300,000 \$ 2,300,000 79938

GRF 235401 Lease Rental Payments \$ 83,151,600 \$ 57,634,400 79939

|            |  |    |               |    |               |       |
|------------|--|----|---------------|----|---------------|-------|
| GRF 235402 | Sea Grants   | \$ | 285,000       | \$ | 285,000       | 79940 |
| GRF 235406 | Articulation and<br>Transfer                                 | \$ | 2,000,000     | \$ | 2,000,000     | 79941 |
| GRF 235408 | Midwest Higher<br>Education Compact                          | \$ | 95,000        | \$ | 95,000        | 79942 |
| GRF 235409 | <u>HEI</u> Information System                                | \$ | 800,000       | \$ | 800,000       | 79943 |
| GRF 235414 | State Grants and<br>Scholarship<br>Administration            | \$ | 1,230,000     | \$ | 1,230,000     | 79944 |
| GRF 235417 | <del>Ohio Learning Network</del><br><u>eStudent Services</u> | \$ | 2,532,688     | \$ | 2,532,688     | 79945 |
| GRF 235428 | Appalachian New<br>Economy Partnership                       | \$ | 737,366       | \$ | 737,366       | 79946 |
| GRF 235433 | Economic Growth<br>Challenge                                 | \$ | 440,000       | \$ | 440,000       | 79947 |
| GRF 235438 | Choose Ohio First<br>Scholarship                             | \$ | 15,750,085    | \$ | 15,750,085    | 79948 |
| GRF 235443 | Adult Basic and<br>Literacy Education -<br>State             | \$ | 7,302,416     | \$ | 7,302,416     | 79949 |
| GRF 235444 | Post-Secondary Adult<br>Career-Technical<br>Education        | \$ | 15,317,547    | \$ | 15,317,547    | 79950 |
| GRF 235474 | Area Health Education<br>Centers Program<br>Support          | \$ | 900,000       | \$ | 900,000       | 79951 |
| GRF 235501 | State Share of<br>Instruction                                | \$ | 1,735,530,031 | \$ | 1,751,225,497 | 79952 |
| GRF 235502 | Student Support<br>Services                                  | \$ | 632,974       | \$ | 632,974       | 79953 |
| GRF 235504 | War Orphans<br>Scholarships                                  | \$ | 4,787,833     | \$ | 4,787,833     | 79954 |
| GRF 235507 | OhioLINK   | \$ | 6,100,000     | \$ | 6,100,000     | 79955 |

|            |  |    |            |    |            |       |
|------------|--|----|------------|----|------------|-------|
| GRF 235508 | Air Force Institute of Technology                  | \$ | 1,740,803  | \$ | 1,740,803  | 79956 |
| GRF 235510 | Ohio Supercomputer Center                          | \$ | 3,347,418  | \$ | 3,347,418  | 79957 |
| GRF 235511 | Cooperative Extension Service                      | \$ | 22,220,910 | \$ | 22,220,910 | 79958 |
| GRF 235514 | Central State Supplement                           | \$ | 11,503,651 | \$ | 10,928,468 | 79959 |
| GRF 235515 | Case Western Reserve University School of Medicine | \$ | 2,146,253  | \$ | 2,146,253  | 79960 |
| GRF 235519 | Family Practice                                    | \$ | 3,166,185  | \$ | 3,166,185  | 79961 |
| GRF 235520 | Shawnee State Supplement                           | \$ | 2,448,523  | \$ | 2,326,097  | 79962 |
| GRF 235524 | Police and Fire Protection                         | \$ | 107,814    | \$ | 107,814    | 79963 |
| GRF 235525 | Geriatric Medicine                                 | \$ | 522,151    | \$ | 522,151    | 79964 |
| GRF 235526 | Primary Care Residencies                           | \$ | 1,500,000  | \$ | 1,500,000  | 79965 |
| GRF 235535 | Ohio Agricultural Research and Development Center  | \$ | 33,100,000 | \$ | 33,100,000 | 79966 |
| GRF 235536 | The Ohio State University Clinical Teaching        | \$ | 9,668,941  | \$ | 9,668,941  | 79967 |
| GRF 235537 | University of Cincinnati Clinical Teaching         | \$ | 7,952,573  | \$ | 7,952,573  | 79968 |
| GRF 235538 | University of Toledo Clinical Teaching             | \$ | 6,198,600  | \$ | 6,198,600  | 79969 |
| GRF 235539 | Wright State University Clinical Teaching          | \$ | 3,011,400  | \$ | 3,011,400  | 79970 |

|             |                             |    |               |    |                          |       |
|-------------|-----------------------------|----|---------------|----|--------------------------|-------|
| GRF 235540  | Ohio University             | \$ | 2,911,212     | \$ | 2,911,212                | 79971 |
|             | Clinical Teaching           |    |               |    |                          |       |
| GRF 235541  | Northeast Ohio Medical      | \$ | 2,994,178     | \$ | 2,994,178                | 79972 |
|             | University Clinical         |    |               |    |                          |       |
|             | Teaching                    |    |               |    |                          |       |
| GRF 235552  | Capital Component           | \$ | 20,638,274    | \$ | <del>20,638,274</del>    | 79973 |
|             |                             |    |               |    | <u>13,628,639</u>        |       |
| GRF 235555  | Library Depositories        | \$ | 1,440,342     | \$ | 1,440,342                | 79974 |
| GRF 235556  | Ohio Academic               | \$ | 3,172,519     | \$ | 3,172,519                | 79975 |
|             | Resources Network           |    |               |    |                          |       |
| GRF 235558  | Long-term Care              | \$ | 195,300       | \$ | 195,300                  | 79976 |
|             | Research                    |    |               |    |                          |       |
| GRF 235563  | Ohio College                | \$ | 80,284,265    | \$ | 80,284,265               | 79977 |
|             | Opportunity Grant           |    |               |    |                          |       |
| GRF 235572  | The Ohio State              | \$ | 766,533       | \$ | 766,533                  | 79978 |
|             | University Clinic           |    |               |    |                          |       |
|             | Support                     |    |               |    |                          |       |
| GRF 235599  | National Guard              | \$ | 16,912,271    | \$ | 18,143,293               | 79979 |
|             | Scholarship Program         |    |               |    |                          |       |
| GRF 235909  | Higher Education            | \$ | 108,262,500   | \$ | 201,555,000              | 79980 |
|             | General Obligation          |    |               |    |                          |       |
|             | Debt Service                |    |               |    |                          |       |
| TOTAL GRF   | General Revenue Fund        | \$ | 2,226,105,156 | \$ | <del>2,310,109,335</del> | 79981 |
|             |                             |    |               |    | <u>2,303,099,700</u>     |       |
|             | General Services Fund Group |    |               |    |                          | 79982 |
| 2200 235614 | Program Approval and        | \$ | 1,311,567     | \$ | 1,457,959                | 79983 |
|             | Reauthorization             |    |               |    |                          |       |
| 4560 235603 | Sales and Services          | \$ | 199,250       | \$ | 199,250                  | 79984 |
| 5JC0 235649 | Co-op Internship            | \$ | 12,000,000    | \$ | 12,000,000               | 79985 |
|             | Program                     |    |               |    |                          |       |
| 5JC0 235667 | Ohio College                | \$ | 6,000,000     | \$ | 6,000,000                | 79986 |
|             | Opportunity                 |    |               |    |                          |       |
|             | Grant-Proprietary           |    |               |    |                          |       |

|                                    |        |  |    |            |    |  |       |
|------------------------------------|--------|--|----|------------|----|--|-------|
| 5JC0                               | 235668 | Air Force Institute<br>of Technology -<br>Defense/Aerospace<br>Graduate Studies<br>Institute | \$ | 4,000,000  | \$ | 4,000,000                                  | 79987 |
| TOTAL GSF General Services         |        |  |    |            |    |  | 79988 |
| Fund Group                         |        |  | \$ | 23,510,817 | \$ | 23,657,209                                 | 79989 |
| Federal Special Revenue Fund Group |        |  |    |            |    |  | 79990 |
| 3120                               | 235609 | Tech Prep  | \$ | 183,850    | \$ | <del>183,850</del> 0                       | 79991 |
| 3120                               | 235611 | Gear-up Grant  | \$ | 3,900,000  | \$ | <del>3,900,000</del>                       | 79992 |
|                                    |        |  |    |            |    | <u>50,000</u>                              |       |
| 3120                               | 235612 | Carl D. Perkins<br>Grant/Plan<br>Administration  | \$ | 912,961    | \$ | 912,961                                    | 79993 |
| 3120                               | 235617 | Improving Teacher<br>Quality Grant   | \$ | 3,200,000  | \$ | 3,200,000                                  | 79994 |
| 3120                               | 235641 | Adult Basic and<br>Literacy Education -<br>Federal   | \$ | 14,835,671 | \$ | 14,835,671                                 | 79995 |
| 3120                               | 235659 | Race to the Top<br>Scholarship Program   | \$ | 2,400,000  | \$ | <del>3,780,000</del> 0                     | 79996 |
| 3120                               | 235660 | Race to the Top<br>Educator Preparation<br>Reform Initiative                                 | \$ | 448,000    | \$ | <del>1,120,000</del> 0                     | 79997 |
| 3120                               | 235661 | Americorps Grant   | \$ | 260,000    | \$ | <del>260,000</del> 0                       | 79998 |
| 3H20                               | 235608 | Human Services<br>Project  | \$ | 3,500,000  | \$ | 3,500,000                                  | 79999 |
| 3N60                               | 235638 | College Access<br>Challenge Grant  | \$ | 4,381,431  | \$ | 4,381,431                                  | 80000 |
| TOTAL FED Federal Special Revenue  |        |  |    |            |    |  | 80001 |
| Fund Group                         |        |  | \$ | 34,021,913 | \$ | <del>36,073,913</del><br><u>26,880,063</u> | 80002 |
| State Special Revenue Fund Group   |        |  |    |            |    |  | 80003 |

|   |        |   |    |               |    |  |       |
|---|--------|---|----|---------------|----|--|-------|
| 4E80  | 235602 | Higher Educational<br>Facility Commission<br>Administration | \$ | 29,100        | \$ | 29,100   | 80004 |
| 5FR0  | 235640 | <del>Joyce Foundation</del><br><u>Shifting Gears</u> Grant  | \$ | 919,719       | \$ | 919,719  | 80005 |
| 5FR0  | 235647 | Developmental<br>Education Initiatives                      | \$ | 135,000       | \$ | 135,000  | 80006 |
| 5FR0  | 235657 | Win-Win Grant   | \$ | 37,000        | \$ | 15,000   | 80007 |
| 5P30  | 235663 | Variable Savings Plan                                       | \$ | 8,946,994     | \$ | 9,072,136  | 80008 |
| 6450  | 235664 | Guaranteed Savings<br>Plan                                  | \$ | 900,293       | \$ | 907,514  | 80009 |
| 6820  | 235606 | Nursing Loan Program  | \$ | 891,320       | \$ | 891,320  | 80010 |
| TOTAL SSR State Special Revenue                               |        |   |    |               |    |  | 80011 |
| Fund Group  |        |   | \$ | 11,859,426    | \$ | 11,969,789                                       | 80012 |
| Third Frontier Research & Development Fund Group              |        |   |    |               |    |  | 80013 |
| 7011  | 235634 | Research Incentive<br>Third Frontier Fund                   | \$ | 8,000,000     | \$ | 8,000,000  | 80014 |
| TOTAL 011 Third Frontier Research &<br>Development Fund Group |        |   | \$ | 8,000,000     | \$ | 8,000,000  | 80015 |
| TOTAL ALL BUDGET FUND GROUPS                                  |        |   | \$ | 2,303,497,312 | \$ | <del>2,389,810,246</del><br><u>2,373,606,761</u> | 80016 |

**Sec. 371.30.30. AIR FORCE INSTITUTE OF TECHNOLOGY** 80018

The foregoing appropriation item 235508, Air Force Institute 80019  
of Technology, shall be used by the director of the Air Force 80020  
Institute to: (A) strengthen the research and educational linkages 80021  
between the Wright Patterson Air Force Base and institutions of 80022  
higher education in Ohio; and (B) support the Dayton Area Graduate 80023  
Studies Institute, an engineering graduate consortium of Wright 80024  
State University, the University of Dayton, and the Air Force 80025  
Institute of Technology, with the participation of the University 80026  
of Cincinnati and The Ohio State University. 80027

Any unexpended and unencumbered portion of the foregoing 80028  
appropriation item 235508, Air Force Institute of Technology, at 80029  
the end of fiscal year 2012 is hereby reappropriated for the same 80030  
purpose in fiscal year 2013. 80031

**Sec. 371.50.61. CO-OP INTERNSHIP PROGRAM** 80032

Of the foregoing appropriation item 235649, Co-op Internship 80033  
Program, \$75,000 in each fiscal year shall be used by the 80034  
Chancellor of the Board of Regents to support the operations of 80035  
Ohio University's Voinovich School. 80036

Of the foregoing appropriation item 235649, Co-op Internship 80037  
Program, \$75,000 in each fiscal year shall be used by the 80038  
Chancellor of the Board of Regents to support the operations of 80039  
The Ohio State University's John Glenn School of Public Affairs. 80040

Of the foregoing appropriation item 235649, Co-op Internship 80041  
Program, \$75,000 in each fiscal year shall be used to support the 80042  
Bliss Institute of Applied Politics at the University of Akron. 80043

Of the foregoing appropriation item 235649, Co-op Internship 80044  
Program, \$75,000 in each fiscal year shall be used to support the 80045  
Center for Public Management and Regional Affairs at Miami 80046  
University. 80047

Of the foregoing appropriation item 235649, Co-op Internship 80048  
Program, \$75,000 in each fiscal year shall be used to support the 80049  
Washington Center Internship Program. 80050

Of the foregoing appropriation item 235649, Co-op Internship 80051  
Program, \$75,000 in each fiscal year shall be used to support the 80052  
Maxine Goodman Levin College of Urban Affairs mentoring program of 80053  
the Ohio Center for the Advancement of Women in Public Service at 80054  
the Cleveland State University. 80055

Of the foregoing appropriation item 235649, Co-op Internship 80056  
Program, \$75,000 in each fiscal year shall be used to support the 80057

University of Cincinnati Internship Program. 80058

Any unexpended and unencumbered portion of the foregoing 80059  
appropriation item 235649, Co-op Internship Program, at the end of 80060  
fiscal year 2012 is hereby reappropriated for the same purpose in 80061  
fiscal year 2013. 80062

**Sec. 371.50.65.** AIR FORCE INSTITUTE OF TECHNOLOGY - 80063  
DEFENSE/AEROSPACE GRADUATE STUDIES INSTITUTE 80064

The foregoing appropriation item 235668, Air Force Institute 80065  
of Technology - Defense/Aerospace Graduate Studies Institute, 80066  
shall be used by the Defense/Aerospace Graduate Studies Institute 80067  
to strengthen regional job training, equip Ohio's workforce with 80068  
needed skills, and strengthen the research and educational 80069  
linkages among Department of Defense facilities in Ohio, 80070  
institutions of higher education in Ohio, and available industry 80071  
jobs in Ohio. These funds shall be matched by private industry 80072  
partners or the Department of Defense in the aggregate amount of 80073  
\$2,500,000 over the FY 2012 - FY 2013 biennium. 80074

Any unexpended and unencumbered portion of the foregoing 80075  
appropriation item 235668, Air Force Institute of Technology - 80076  
Defense/Aerospace Graduate Studies Institute, at the end of fiscal 80077  
year 2012 is hereby reappropriated for the same purpose in fiscal 80078  
year 2013. 80079

**Sec. 371.60.80.** (A) The Ohio Digital Learning Task Force is 80080  
hereby established to develop a strategy for the expansion of 80081  
digital learning that enables students to customize their 80082  
education, produces cost savings, and meets the needs of Ohio's 80083  
economy. The Task Force shall consist of the following members: 80084

(1) The Chancellor of the Ohio Board of Regents or the 80085  
Chancellor's designee; 80086

(2) The Superintendent of Public Instruction or the 80087

|  |   |
|--|---|
| Superintendent's designee;   | 80088                                     |
| (3) The Director of the Governor's Office of 21st Century Education or the Director's designee;  | 80089<br>80090                            |
| (4) Up to six members appointed by the Governor, who shall be representatives of school districts or community schools, established under Chapter 3314. of the Revised Code, that are high-performing of their type and have demonstrated the ability to incorporate technology into the classroom successfully; | 80091<br>80092<br>80093<br>80094<br>80095 |
| (5) A member appointed by the President of the Senate;   | 80096                                     |
| (6) A member appointed by the Speaker of the House of Representatives.   | 80097<br>80098                            |
| (B) Members of the Task Force shall be appointed not later than sixty days after the effective date of this section. Vacancies on the Task Force shall be filled in the same manner as the original appointments. Members shall serve without compensation.  | 80099<br>80100<br>80101<br>80102<br>80103 |
| (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.   | 80104<br>80105<br>80106                   |
| (D) The Task Force shall do all of the following:  | 80107                                     |
| (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;  | 80108<br>80109<br>80110<br>80111<br>80112 |
| (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;  | 80113<br>80114<br>80115<br>80116          |
| (3) Examine potential academic benefits of utilizing digital   | 80117                                     |

textbooks and other new digital content distribution methods, 80118  
including, but not limited to, the ability to individualize 80119  
content to specific student learning styles, accessibility for 80120  
individuals with disabilities, and the integration of formative 80121  
and other online assessments; 80122

(4) Examine digital content pilot programs and initiatives 80123  
currently operating at primary, secondary, and post-secondary 80124  
schools and institutions in Ohio, including, but not limited to, 80125  
those financed in part with federal funds; 80126

(5) Examine any state-level initiatives to provide or 80127  
facilitate use of digital content in primary, secondary, and 80128  
post-secondary schools and institutions in Ohio. 80129

(E) The Task Force shall make recommendations regarding all 80130  
of the following: 80131

(1) The creation of high quality digital content and 80132  
instruction in grades kindergarten to twelve for free access by 80133  
public and nonpublic schools and students receiving home 80134  
instruction; 80135

(2) High quality professional development for teachers and 80136  
principals providing online instruction or blended learning 80137  
programs; 80138

(3) Funding strategies that create incentives for high 80139  
performance, innovation, and options in course providers and 80140  
delivery; 80141

(4) Student assessment and accountability; 80142

(5) Infrastructure to support digital learning; 80143

(6) Mobile learning and mobile learning applications; 80144

(7) The clearinghouse established under section 3333.82 of 80145  
the Revised Code; 80146

(8) Ways to align the resources and digital learning 80147

initiatives of state agencies and offices; 80148

(9) Methods for removing redundancy and inefficiency in, and 80149  
for providing coordination, of all digital learning programs, 80150  
including the provision of free online instruction to public and 80151  
nonpublic schools on a statewide basis; 80152

(10) Methods of addressing future changes in technology and 80153  
learning. 80154

~~(E)~~(F) Not later than March 1, 2012, the Task Force shall 80155  
issue a report of its findings and recommendations to the 80156  
Governor, the President of the Senate, and the Speaker of the 80157  
House of Representatives. ~~Upon issuance of~~ After issuing its 80158  
report, the Task Force shall monitor the implementation of its 80159  
recommendations. Not later than June 30, 2013, the Task Force 80160  
shall report to the Governor, the President of the Senate, and the 80161  
Speaker of the House of Representatives whether digital learning 80162  
is advancing in Ohio schools and submit any recommendations to 80163  
further enhance the full deployment of useful digital learning 80164  
programs and services. The Task Force shall cease to exist on June 80165  
30, 2013. 80166

**Sec. 373.10.** DRC DEPARTMENT OF REHABILITATION AND CORRECTION 80167

General Revenue Fund 80168

|            |               |    |             |    |             |       |
|------------|---------------|----|-------------|----|-------------|-------|
| GRF 501321 | Institutional | \$ | 909,547,156 | \$ | 866,592,589 | 80169 |
|------------|---------------|----|-------------|----|-------------|-------|

Operations

|            |                       |    |           |    |           |       |
|------------|-----------------------|----|-----------|----|-----------|-------|
| GRF 501403 | Prisoner Compensation | \$ | 8,599,255 | \$ | 8,599,255 | 80170 |
|------------|-----------------------|----|-----------|----|-----------|-------|

|            |               |    |            |    |            |       |
|------------|---------------|----|------------|----|------------|-------|
| GRF 501405 | Halfway House | \$ | 43,637,069 | \$ | 43,622,104 | 80171 |
|------------|---------------|----|------------|----|------------|-------|

|            |                       |    |            |    |             |       |
|------------|-----------------------|----|------------|----|-------------|-------|
| GRF 501406 | Lease Rental Payments | \$ | 42,863,100 | \$ | 104,301,500 | 80172 |
|------------|-----------------------|----|------------|----|-------------|-------|

|            |           |    |            |    |            |       |
|------------|-----------|----|------------|----|------------|-------|
| GRF 501407 | Community | \$ | 25,859,382 | \$ | 25,839,390 | 80173 |
|------------|-----------|----|------------|----|------------|-------|

Nonresidential

Programs

|            |                       |    |            |    |            |       |
|------------|-----------------------|----|------------|----|------------|-------|
| GRF 501408 | Community Misdemeanor | \$ | 14,906,800 | \$ | 14,906,800 | 80174 |
|------------|-----------------------|----|------------|----|------------|-------|

Programs

|                                |   |                  |                                   |       |
|--------------------------------|---|------------------|-----------------------------------|-------|
| GRF 501501                     | Community Residential Programs - CBCF                       | \$ 62,692,785    | \$ 62,477,785                     | 80175 |
| GRF 502321                     | Mental Health Services                                      | \$ 58,525,816    | \$ 51,778,513                     | 80176 |
| GRF 503321                     | Parole and Community Operations                             | \$ 68,197,272    | \$ 63,783,848                     | 80177 |
| GRF 504321                     | Administrative Operations                                   | \$ 21,996,504    | \$ 20,085,474                     | 80178 |
| GRF 505321                     | Institution Medical Services                                | \$ 209,231,014   | \$ 195,241,961                    | 80179 |
| GRF 506321                     | Institution Education Services                              | \$ 20,237,576    | \$ 18,086,492                     | 80180 |
| GRF 507321                     | Institution Recovery Services                               | \$ 5,786,109     | \$ 5,375,737                      | 80181 |
| TOTAL GRF General Revenue Fund |   | \$ 1,492,079,838 | \$ 1,480,691,448                  | 80182 |
| General Services Fund Group    |   |                  |                                   | 80183 |
| 1480 501602                    | <del>Services and Agricultural Institutional Services</del> | \$ 3,579,250     | \$ 3,584,263                      | 80184 |
| 2000 501607                    | Ohio Penal Industries                                       | \$ 38,000,000    | \$ 38,000,000                     | 80185 |
| 4830 501605                    | Property Receipts   | \$ 182,723       | \$ 182,086                        | 80186 |
| 4B00 501601                    | Sewer Treatment Services                                    | \$ 2,145,630     | <del>2,157,682</del><br>2,057,682 | 80187 |
| 4D40 501603                    | Prisoner Programs   | \$ 14,900,000    | \$ 14,900,000                     | 80188 |
| 4L40 501604                    | Transitional Control  | \$ 1,168,843     | <del>1,213,120</del><br>1,113,120 | 80189 |
| 4S50 501608                    | Education Services  | \$ 2,376,041     | \$ 2,359,775                      | 80190 |
| 5710 501606                    | Training Academy Receipts                                   | \$ 125,000       | \$ 125,000                        | 80191 |
| 5930 501618                    | Laboratory Services   | \$ 6,665,137     | \$ 6,664,729                      | 80192 |
| 5AF0 501609                    | State and Non-Federal Awards                                | \$ 1,440,000     | \$ 1,440,000                      | 80193 |
| 5H80 501617                    | Offender Financial  | \$ 2,000,000     | \$ 2,000,000                      | 80194 |

|                                    |                         |    |               |    |                                |
|------------------------------------|-------------------------|----|---------------|----|--------------------------------|
|                                    | Responsibility          |    |               |    |                                |
| 5L60 501611                        | Information             | \$ | 600,000       | \$ | <del>600,000</del> 80195       |
|                                    | Technology Services     |    |               |    | <u>350,000</u>                 |
| TOTAL GSF                          | General Services Fund   | \$ | 73,182,624    | \$ | <del>73,226,655</del> 80196    |
| Group                              |                         |    |               |    | <u>72,776,655</u>              |
| Federal Special Revenue Fund Group |                         |    |               |    | 80197                          |
| 3230 501619                        | Federal Grants          | \$ | 9,013,558     | \$ | 9,180,703 80198                |
| TOTAL FED                          | Federal Special Revenue |    |               |    | 80199                          |
| Fund Group                         |                         | \$ | 9,013,558     | \$ | 9,180,703 80200                |
| TOTAL ALL BUDGET FUND GROUPS       |                         | \$ | 1,574,276,020 | \$ | <del>1,563,098,806</del> 80201 |
|                                    |                         |    |               |    | <u>1,562,648,806</u>           |

TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL 80202  
SENTENCING REFORMS 80203

For the purposes of implementing criminal sentencing reforms, 80204  
and notwithstanding any other provision of law to the contrary, 80205  
the Director of Budget and Management, at the request of the 80206  
Director of Rehabilitation and Correction, may transfer up to 80207  
\$14,000,000 in appropriations, in each of fiscal years 2012 and 80208  
2013, from appropriation item 501321, Institutional Operations, to 80209  
any combination of appropriation items 501405, Halfway House; 80210  
501407, Community Residential Programs; 501408, Community 80211  
Misdemeanor Programs; and 501501, Community Residential Programs - 80212  
CBCF. 80213

OHIO BUILDING AUTHORITY LEASE PAYMENTS 80214

The foregoing appropriation item 501406, Lease Rental 80215  
Payments, shall be used to meet all payments at the times they are 80216  
required to be made during the period from July 1, 2011, through 80217  
June 30, 2013, by the Department of Rehabilitation and Correction 80218  
to the Ohio Building Authority under the primary leases and 80219  
agreements for those buildings made under Chapter 152. of the 80220  
Revised Code. These appropriations are the source of funds pledged 80221  
for bond service charges or obligations issued pursuant to Chapter 80222

|   |       |
|---|-------|
| 152. of the Revised Code.   | 80223 |
| OSU MEDICAL CHARGES   | 80224 |
| Notwithstanding section 341.192 of the Revised Code, at the           | 80225 |
| request of the Department of Rehabilitation and Correction, The       | 80226 |
| Ohio State University Medical Center, including the James Cancer      | 80227 |
| Hospital and Solove Research Institute and the Richard M. Ross        | 80228 |
| Heart Hospital, shall provide necessary care to persons who are       | 80229 |
| confined in state adult correctional facilities. The provision of     | 80230 |
| necessary care shall be billed to the Department at a rate not to     | 80231 |
| exceed the authorized reimbursement rate for the same service         | 80232 |
| established by the Department of Job and Family Services under the    | 80233 |
| Medical Assistance Program.   | 80234 |
| <u>CASH TRANSFER FROM INSTITUTIONAL SERVICES FUND TO OHIO PENAL</u>   | 80235 |
| <u>INDUSTRIES FUND</u>  | 80236 |
| <u>The Director of Budget and Management may transfer an amount</u>   | 80237 |
| <u>not to exceed \$4,000,000 in cash in fiscal year 2013 from the</u> | 80238 |
| <u>Institutional Services Fund (Fund 1480) to the Ohio Penal</u>      | 80239 |
| <u>Industries Fund (Fund 2000).</u>                                   | 80240 |
| <b>Sec. 375.10. RSC REHABILITATION SERVICES COMMISSION</b>            | 80241 |
| General Revenue Fund  | 80242 |
| GRF 415402 Independent Living \$ 252,000 \$ 252,000                   | 80243 |
| Council   |       |
| GRF 415406 Assistive Technology \$ 26,618 \$ 26,618                   | 80244 |
| GRF 415431 Office for People \$ 126,567 \$ 126,567                    | 80245 |
| with Brain Injury   |       |
| GRF 415506 Services for People \$ 12,777,884 \$ 12,777,884            | 80246 |
| with Disabilities   |       |
| GRF 415508 Services for the Deaf \$ 28,000 \$ 28,000                  | 80247 |
| TOTAL GRF General Revenue Fund \$ 13,211,069 \$ 13,211,069            | 80248 |
| General Services Fund Group   | 80249 |

|                                    |        |                       |    |             |    |                        |       |
|------------------------------------|--------|-----------------------|----|-------------|----|------------------------|-------|
| 4670                               | 415609 | Business Enterprise   | \$ | 1,308,431   | \$ | 1,303,090              | 80250 |
|                                    |        | Operating Expenses    |    |             |    |                        |       |
| TOTAL GSF General Services         |        |                       |    |             |    |                        | 80251 |
| Fund Group                         |        |                       | \$ | 1,308,431   | \$ | 1,303,090              | 80252 |
| Federal Special Revenue Fund Group |        |                       |    |             |    |                        | 80253 |
| 3170                               | 415620 | Disability            | \$ | 97,579,095  | \$ | <del>97,579,095</del>  | 80254 |
|                                    |        | Determination         |    |             |    | <u>87,579,095</u>      |       |
| 3790                               | 415616 | Federal - Vocational  | \$ | 103,160,426 | \$ | 103,150,102            | 80255 |
|                                    |        | Rehabilitation        |    |             |    |                        |       |
| 3L10                               | 415601 | Social Security       | \$ | 3,370,000   | \$ | 3,370,000              | 80256 |
|                                    |        | Personal Care         |    |             |    |                        |       |
|                                    |        | Assistance            |    |             |    |                        |       |
| 3L10                               | 415605 | Social Security       | \$ | 772,000     | \$ | 772,000                | 80257 |
|                                    |        | Community Centers for |    |             |    |                        |       |
|                                    |        | the Deaf              |    |             |    |                        |       |
| 3L10                               | 415608 | Social Security       | \$ | 1,521,406   | \$ | 1,520,184              | 80258 |
|                                    |        | Special               |    |             |    |                        |       |
|                                    |        | Programs/Assistance   |    |             |    |                        |       |
| 3L40                               | 415612 | Federal Independent   | \$ | 652,222     | \$ | 652,222                | 80259 |
|                                    |        | Living Centers or     |    |             |    |                        |       |
|                                    |        | Services              |    |             |    |                        |       |
| 3L40                               | 415615 | Federal - Supported   | \$ | 929,755     | \$ | 929,755                | 80260 |
|                                    |        | Employment            |    |             |    |                        |       |
| 3L40                               | 415617 | Independent           | \$ | 2,137,338   | \$ | 2,137,338              | 80261 |
|                                    |        | Living/Vocational     |    |             |    |                        |       |
|                                    |        | Rehabilitation        |    |             |    |                        |       |
|                                    |        | Programs              |    |             |    |                        |       |
| TOTAL FED Federal Special          |        |                       |    |             |    |                        | 80262 |
| Revenue Fund Group                 |        |                       | \$ | 210,122,242 | \$ | <del>210,110,696</del> | 80263 |
|                                    |        |                       |    |             |    | <u>200,110,696</u>     |       |
| State Special Revenue Fund Group   |        |                       |    |             |    |                        | 80264 |
| 4680                               | 415618 | Third Party Funding   | \$ | 10,802,589  | \$ | 10,802,589             | 80265 |

|                              |                                |                |  |       |
|------------------------------|--------------------------------|----------------|--|-------|
| 4L10 415619                  | Services for<br>Rehabilitation | \$ 3,700,000   | \$ 3,700,000                                 | 80266 |
| 4W50 415606                  | Program Management<br>Expenses | \$ 11,636,730  | \$ 11,587,201                                | 80267 |
| TOTAL SSR State Special      |                                |                |  | 80268 |
| Revenue Fund Group           |                                | \$ 26,139,319  | \$ 26,089,790                                | 80269 |
| TOTAL ALL BUDGET FUND GROUPS |                                | \$ 250,781,061 | <del>250,714,645</del><br><u>240,714,645</u> | 80270 |

INDEPENDENT LIVING COUNCIL 80271

The foregoing appropriation item 415402, Independent Living 80272  
Council, shall be used to fund the operations of the State 80273  
Independent Living Council and to support state independent living 80274  
centers and independent living services under Title VII of the 80275  
Independent Living Services and Centers for Independent Living of 80276  
the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 80277  
U.S.C. 796d. 80278

Of the foregoing appropriation item 415402, Independent 80279  
Living Council, \$67,662 in each fiscal year shall be used as state 80280  
matching funds for vocational rehabilitation innovation and 80281  
expansion activities. 80282

ASSISTIVE TECHNOLOGY 80283

The total amount of the foregoing appropriation item 415406, 80284  
Assistive Technology, shall be provided to Assistive Technology of 80285  
Ohio to provide grants and assistive technology services for 80286  
people with disabilities in the State of Ohio. 80287

OFFICE FOR PEOPLE WITH BRAIN INJURY 80288

The foregoing appropriation item 415431, Office for People 80289  
with Brain Injury, shall be used to plan and coordinate 80290  
head-injury-related services provided by state agencies and other 80291  
government or private entities, to assess the needs for such 80292  
services, and to set priorities in this area. 80293

Of the foregoing appropriation item 415431, Office for People with Brain Injury, \$44,067 in each fiscal year shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

VOCATIONAL REHABILITATION SERVICES 80298

The foregoing appropriation item 415506, Services for People with Disabilities, shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

At the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer any unexpended, unencumbered appropriation in fiscal year 2012 or fiscal year 2013 from appropriation item 235502, Student Support Services, to appropriation item 415506, Services for People with Disabilities. Any appropriation so transferred shall be used by the Ohio Rehabilitation Services Commission to obtain additional federal matching funds to serve disabled students.

SERVICES FOR THE DEAF 80310

The foregoing appropriation item 415508, Services for the Deaf, shall be used to provide grants to community centers for the deaf.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 80314

The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs.

SOCIAL SECURITY REIMBURSEMENT FUNDS 80318

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10),

|  |  |
|--|--|
| to the extent funds are available, as follows:   | 80324  |
| (A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;   | 80325<br>80326<br>80327  |
| (B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and   | 80328<br>80329<br>80330<br>80331                                     |
| (C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87. | 80332<br>80333<br>80334<br>80335<br>80336<br>80337<br>80338<br>80339 |
| PROGRAM MANAGEMENT EXPENSES  | 80340  |
| The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.  | 80341<br>80342<br>80343<br>80344<br>80345                            |
| <b>Sec. 379.10. RDF REVENUE DISTRIBUTION FUNDS</b>   | 80346  |
| Volunteer Firefighters' Dependents Fund  | 80347  |
| 7085 800985 Volunteer Firemen's Dependents Fund  | \$ 300,000 \$ 300,000 80348  |
| TOTAL 085 Volunteer Firefighters' Dependents Fund  | \$ 300,000 \$ 300,000 80349<br>80350                                 |
| Agency Fund Group  | 80351  |
| 4P80 001698 Cash Management  | \$ 3,100,000 \$ 3,100,000 80352                                      |

|                 |                   |                                 |               |                          |               |                          |       |
|-----------------|-------------------|---------------------------------|---------------|--------------------------|---------------|--------------------------|-------|
|                 |                   | Improvement Fund                |               |                          |               |                          |       |
| 5JG0            | 110633            | Gross Casino Revenue            | \$            | 5,778,617                | \$            | 138,882,294              | 80353 |
|                 |                   | County Fund                     |               |                          |               |                          |       |
| 5JH0            | 110634            | Gross Casino Revenue            | \$            | 3,852,412                | \$            | 92,588,196               | 80354 |
|                 |                   | County Student Fund             |               |                          |               |                          |       |
| 5JJ0            | 110636            | Gross Casino Revenue            | \$            | 566,531                  | \$            | 13,615,911               | 80355 |
|                 |                   | Host City Fund                  |               |                          |               |                          |       |
| <del>5JK0</del> | <del>875610</del> | <del>Ohio State Racing</del>    | <del>\$</del> | <del>339,919</del>       | <del>\$</del> | <del>8,169,547</del>     | 80356 |
|                 |                   | <del>Commission Fund</del>      |               |                          |               |                          |       |
| <del>5JL0</del> | <del>038629</del> | <del>Problem Casino</del>       | <del>\$</del> | <del>226,612</del>       | <del>\$</del> | <del>5,446,364</del>     | 80357 |
|                 |                   | <del>Gambling and</del>         |               |                          |               |                          |       |
|                 |                   | <del>Addictions Fund</del>      |               |                          |               |                          |       |
| <del>5JN0</del> | <del>055654</del> | <del>Ohio Law Enforcement</del> | <del>\$</del> | <del>226,612</del>       | <del>\$</del> | <del>5,446,364</del>     | 80358 |
|                 |                   | <del>Training Fund</del>        |               |                          |               |                          |       |
| 6080            | 001699            | Investment Earnings             | \$            | 50,000,000               | \$            | 150,000,000              | 80359 |
| 7062            | 110962            | Resort Area Excise              | \$            | 1,000,000                | \$            | 1,000,000                | 80360 |
|                 |                   | Tax                             |               |                          |               |                          |       |
| 7063            | 110963            | Permissive Tax                  | \$            | 1,904,500,000            | \$            | 1,980,700,000            | 80361 |
|                 |                   | Distribution                    |               |                          |               |                          |       |
| 7067            | 110967            | School District                 | \$            | 317,000,000              | \$            | 330,000,000              | 80362 |
|                 |                   | Income Tax                      |               |                          |               |                          |       |
| TOTAL AGY       | Agency Fund Group |                                 | \$            | <del>2,286,590,703</del> | \$            | <del>2,728,948,676</del> | 80363 |
|                 |                   |                                 |               | <u>2,285,797,560</u>     |               | <u>2,709,886,401</u>     |       |
|                 |                   | Holding Account Redistribution  |               |                          |               |                          | 80364 |
| R045            | 110617            | International Fuel              | \$            | 40,000,000               | \$            | 40,000,000               | 80365 |
|                 |                   | Tax Distribution                |               |                          |               |                          |       |
| TOTAL 090       | Holding Account   |                                 |               |                          |               |                          | 80366 |
|                 |                   | Redistribution Fund             |               |                          |               |                          |       |
|                 |                   | Revenue Distribution Fund Group | \$            | 40,000,000               | \$            | 40,000,000               | 80367 |
| 7049            | 038900            | Indigent Drivers                | \$            | 2,200,000                | \$            | 2,200,000                | 80368 |
|                 |                   | Alcohol Treatment               |               |                          |               |                          |       |
| 7050            | 762900            | International                   | \$            | 30,000,000               | \$            | 30,000,000               | 80369 |
|                 |                   | Registration Plan               |               |                          |               |                          |       |

|                                |        |                       |                             |                             |  |       |
|--------------------------------|--------|-----------------------|-----------------------------|-----------------------------|--|-------|
|                                |        | Distribution          |                             |                             |  |       |
| 7051                           | 762901 | Auto Registration     | \$ 539,000,000              | \$ 539,000,000              |  | 80370 |
|                                |        | Distribution          |                             |                             |  |       |
| 7054                           | 110954 | Local Government      | \$ 16,000,000               | \$ 11,000,000               |  | 80371 |
|                                |        | Property Tax          |                             |                             |  |       |
|                                |        | Replacement - Utility |                             |                             |  |       |
| 7060                           | 110960 | Gasoline Excise Tax   | \$ 393,000,000              | \$ 395,000,000              |  | 80372 |
|                                |        | Fund                  |                             |                             |  |       |
| 7065                           | 110965 | Public Library Fund   | \$ 354,000,000              | \$ 345,000,000              |  | 80373 |
| 7066                           | 800966 | Undivided Liquor      | \$ 14,100,000               | \$ 14,100,000               |  | 80374 |
|                                |        | Permits               |                             |                             |  |       |
| 7068                           | 110968 | State and Local       | \$ 193,000,000              | \$ 196,000,000              |  | 80375 |
|                                |        | Government Highway    |                             |                             |  |       |
|                                |        | Distribution          |                             |                             |  |       |
| 7069                           | 110969 | Local Government Fund | \$ 577,000,000              | \$ 348,000,000              |  | 80376 |
| 7081                           | 110981 | Local Government      | \$ 291,000,000              | \$ 181,000,000              |  | 80377 |
|                                |        | Property Tax          |                             |                             |  |       |
|                                |        | Replacement-Business  |                             |                             |  |       |
| 7082                           | 110982 | Horse Racing Tax      | \$ 100,000                  | \$ 100,000                  |  | 80378 |
| 7083                           | 700900 | Ohio Fairs Fund       | \$ 1,400,000                | \$ 1,400,000                |  | 80379 |
| TOTAL RDF Revenue Distribution |        |                       |                             |                             |  | 80380 |
| Fund Group                     |        |                       | \$ 2,410,800,000            | \$ 2,062,800,000            |  | 80381 |
| TOTAL ALL BUDGET FUND GROUPS   |        |                       | \$ <del>4,737,690,703</del> | \$ <del>4,832,048,676</del> |  | 80382 |
|                                |        |                       | <u>4,736,897,560</u>        | <u>4,812,986,401</u>        |  |       |

ADDITIONAL APPROPRIATIONS 80383

Appropriation items in this section shall be used for the 80384  
purpose of administering and distributing the designated revenue 80385  
distribution funds according to the Revised Code. If it is 80386  
determined that additional appropriations are necessary for this 80387  
purpose, such amounts are hereby appropriated. 80388

GENERAL REVENUE FUND TRANSFERS 80389

Notwithstanding any provision of law to the contrary, in 80390

fiscal year 2012 and fiscal year 2013, the Director of Budget and Management may transfer from the General Revenue Fund to the Local Government Tangible Property Tax Replacement Fund (Fund 7081) in the Revenue Distribution Fund Group, those amounts necessary to reimburse local taxing units under section 5751.22 of the Revised Code. Also, in fiscal year 2012 and fiscal year 2013, the Director of Budget and Management may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Local Government Tangible Property Tax Replacement Fund (Fund 7081) and to replenish the General Revenue Fund for such transfers.

|  |                       |                |                           |       |
|--|-----------------------|----------------|---------------------------|-------|
| <b>Sec. 387.10. SFC SCHOOL FACILITIES COMMISSION</b> |                       |                |                           | 80401 |
| General Revenue Fund                                 |                       |                |                           | 80402 |
| GRF 230908   | Common Schools        | \$ 150,604,900 | \$ <del>341,919,400</del> | 80403 |
|  | General Obligation    |                | <u>329,919,400</u>        |       |
|  | Debt Service          |                |                           |       |
| TOTAL GRF  | General Revenue Fund  | \$ 150,604,900 | \$ <del>341,919,400</del> | 80404 |
|  |                       |                | <u>329,919,400</u>        |       |
| State Special Revenue Fund Group                     |                       |                |                           | 80405 |
| 5E30 230644  | Operating Expenses    | \$ 8,950,000   | \$ 8,550,000              | 80406 |
| TOTAL SSR  | State Special Revenue |                |                           | 80407 |
| Fund Group   |                       | \$ 8,950,000   | \$ 8,550,000              | 80408 |
| TOTAL ALL BUDGET FUND GROUPS                         |                       | \$ 159,554,900 | \$ <del>350,469,400</del> | 80409 |
|  |                       |                | <u>338,469,400</u>        |       |

|  |                    |               |                                    |       |
|--|--------------------|---------------|------------------------------------|-------|
| <b>Sec. 403.10. TAX DEPARTMENT OF TAXATION</b> |                    |               |                                    | 80411 |
| General Revenue Fund                           |                    |               |                                    | 80412 |
| GRF 110321                                     | Operating Expenses | \$ 73,500,000 | \$ <del>73,550,000</del>           | 80413 |
|  |                    |               | <u>72,814,500</u>                  |       |
| GRF 110404                                     | Tobacco Settlement | \$ 200,000    | \$ <del>200,000</del>              | 80414 |
|  | Enforcement        |               | <u>198,000</u>                     |       |
| GRF 110412                                     | Child Support      | \$ 15,804     | \$ <del>15,804</del> <u>15,646</u> | 80415 |



|   |        |  |    |               |    |  |       |
|---|--------|--|----|---------------|----|--|-------|
| 4360                                      | 110608 | Motor Vehicle Audit                              | \$ | 1,474,081     | \$ | <del>1,474,353</del>                       | 80433 |
|   |        |  |    |               |    | <u>1,459,609</u>                           |       |
| 4370                                      | 110606 | Litter/Natural<br>Resource Tax<br>Administration | \$ | 20,000        | \$ | <del>20,000</del> <u>19,800</u>            | 80434 |
| 4380                                      | 110609 | School District Income<br>Tax                    | \$ | 5,859,041     | \$ | <del>5,860,650</del><br><u>5,802,044</u>   | 80435 |
| 4C60                                      | 110616 | International<br>Registration Plan               | \$ | 689,296       | \$ | <del>689,308</del><br><u>682,415</u>       | 80436 |
| 4R60                                      | 110610 | Tire Tax<br>Administration                       | \$ | 245,462       | \$ | <del>246,660</del><br><u>244,193</u>       | 80437 |
| 5V70                                      | 110622 | Motor Fuel Tax<br>Administration                 | \$ | 5,384,254     | \$ | <del>5,086,236</del><br><u>5,035,374</u>   | 80438 |
| 6390                                      | 110614 | Cigarette Tax<br>Enforcement                     | \$ | 1,384,217     | \$ | <del>1,384,314</del><br><u>1,370,471</u>   | 80439 |
| 6420                                      | 110613 | Ohio Political Party<br>Distributions            | \$ | 500,000       | \$ | 500,000                                    | 80440 |
| 6880                                      | 110615 | Local Excise Tax<br>Administration               | \$ | 782,630       | \$ | <del>782,843</del><br><u>775,015</u>       | 80441 |
| TOTAL SSR State Special Revenue           |        |  |    |               |    |  | 80442 |
| Fund Group                                |        |  | \$ | 35,367,320    | \$ | <del>35,270,305</del><br><u>34,922,603</u> | 80443 |
| Agency Fund Group                         |        |  |    |               |    |  | 80444 |
| 4250                                      | 110635 | Tax Refunds                                      | \$ | 1,546,800,000 | \$ | 1,546,800,000                              | 80445 |
| 7095                                      | 110995 | Municipal Income Tax                             | \$ | 21,000,000    | \$ | 21,000,000                                 | 80446 |
| TOTAL AGY Agency Fund Group               |        |  |    |               |    |  | 80447 |
| Holding Account Redistribution Fund Group |        |  |    |               |    |  | 80448 |
| R010                                      | 110611 | Tax Distributions                                | \$ | 50,000        | \$ | 50,000                                     | 80449 |
| R011                                      | 110612 | Miscellaneous Income<br>Tax Receipts             | \$ | 50,000        | \$ | 50,000                                     | 80450 |
| TOTAL 090 Holding Account                 |        |  |    |               |    |  | 80451 |
| Redistribution Fund Group                 |        |  | \$ | 100,000       | \$ | 100,000                                    | 80452 |



incurred to promote and administer the tax amnesty program to be 80483  
conducted from May 1, 2012, through June 15, 2012, by the 80484  
Department of Taxation pursuant to Section 757.40 of ~~this act~~ Am. 80485  
Sub. H.B. 153 of the 129th General Assembly. 80486

MUNICIPAL INCOME TAX 80487

The foregoing appropriation item 110995, Municipal Income 80488  
Tax, shall be used to make payments to municipal corporations 80489  
under section 5745.05 of the Revised Code. If it is determined 80490  
that additional appropriations are necessary to make such 80491  
payments, such amounts are hereby appropriated. 80492

TAX REFUNDS 80493

The foregoing appropriation item 110635, Tax Refunds, shall 80494  
be used to pay refunds under section 5703.052 of the Revised Code. 80495  
If it is determined that additional appropriations are necessary 80496  
for this purpose, such amounts are hereby appropriated. 80497

INTERNATIONAL REGISTRATION PLAN AUDIT 80498

The foregoing appropriation item 110616, International 80499  
Registration Plan, shall be used under section 5703.12 of the 80500  
Revised Code for audits of persons with vehicles registered under 80501  
the International Registration Plan. 80502

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 80503

Of the foregoing appropriation item 110607, Local Tax 80504  
Administration, the Tax Commissioner may disburse funds, if 80505  
available, for the purposes of paying travel expenses incurred by 80506  
members of Ohio's delegation to the Streamlined Sales Tax Project, 80507  
as appointed under section 5740.02 of the Revised Code. Any travel 80508  
expense reimbursement paid for by the Department of Taxation shall 80509  
be done in accordance with applicable state laws and guidelines. 80510

CENTRALIZED TAX FILING AND PAYMENT FUND 80511

The Director of Budget and Management, under a plan submitted 80512

by the Tax Commissioner, or as otherwise determined by the 80513  
Director of Budget and Management, shall set a schedule to 80514  
transfer cash from the General Revenue Fund to the credit of the 80515  
Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers 80516  
of cash shall not exceed \$400,000 in the biennium. 80517

TOBACCO SETTLEMENT ENFORCEMENT 80518

The foregoing appropriation item 110404, Tobacco Settlement 80519  
Enforcement, shall be used by the Tax Commissioner to pay costs 80520  
incurred in the enforcement of divisions (F) and (G) of section 80521  
5743.03 of the Revised Code. 80522

**Sec. 411.10.** DVS DEPARTMENT OF VETERANS SERVICES 80523

General Revenue Fund 80524

|     |        |                 |    |            |    |            |       |
|-----|--------|-----------------|----|------------|----|------------|-------|
| GRF | 900321 | Veterans' Homes | \$ | 27,369,946 | \$ | 27,369,946 | 80525 |
|-----|--------|-----------------|----|------------|----|------------|-------|

|     |        |              |    |         |    |         |       |
|-----|--------|--------------|----|---------|----|---------|-------|
| GRF | 900402 | Hall of Fame | \$ | 107,075 | \$ | 107,075 | 80526 |
|-----|--------|--------------|----|---------|----|---------|-------|

|     |        |                   |    |           |    |                      |       |
|-----|--------|-------------------|----|-----------|----|----------------------|-------|
| GRF | 900408 | Department of     | \$ | 1,901,823 | \$ | <del>1,901,823</del> | 80527 |
|     |        | Veterans Services |    |           |    | <u>2,001,823</u>     |       |

|     |        |                       |    |           |    |            |       |
|-----|--------|-----------------------|----|-----------|----|------------|-------|
| GRF | 900901 | Persian Gulf,         | \$ | 5,486,600 | \$ | 10,112,100 | 80528 |
|     |        | Afghanistan, and Iraq |    |           |    |            |       |
|     |        | Compensation Debt     |    |           |    |            |       |
|     |        | Service               |    |           |    |            |       |

|                                |    |            |    |                       |       |
|--------------------------------|----|------------|----|-----------------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 34,865,444 | \$ | <del>39,490,944</del> | 80529 |
|                                |    |            |    | <u>39,590,944</u>     |       |

General Services Fund Group 80530

|      |        |                 |    |         |    |         |       |
|------|--------|-----------------|----|---------|----|---------|-------|
| 4840 | 900603 | Veterans' Homes | \$ | 305,806 | \$ | 312,458 | 80531 |
|      |        | Services        |    |         |    |         |       |

|                                 |    |         |    |         |       |
|---------------------------------|----|---------|----|---------|-------|
| TOTAL GSF General Services Fund | \$ | 305,806 | \$ | 312,458 | 80532 |
|---------------------------------|----|---------|----|---------|-------|

Group

Federal Special Revenue Fund Group 80533

|      |        |                   |    |         |    |         |       |
|------|--------|-------------------|----|---------|----|---------|-------|
| 3680 | 900614 | Veterans Training | \$ | 769,500 | \$ | 754,377 | 80534 |
|------|--------|-------------------|----|---------|----|---------|-------|

|      |        |                    |    |         |    |         |       |
|------|--------|--------------------|----|---------|----|---------|-------|
| 3740 | 900606 | Troops to Teachers | \$ | 136,786 | \$ | 133,461 | 80535 |
|------|--------|--------------------|----|---------|----|---------|-------|

|                              |  |    |            |    |                        |       |
|------------------------------|--|----|------------|----|------------------------|-------|
| 3BX0 900609                  | Medicare Services  | \$ | 2,500,000  | \$ | 2,490,169              | 80536 |
| 3L20 900601                  | Veterans' Homes  | \$ | 23,455,379 | \$ | 23,476,269             | 80537 |
|                              | Operations - Federal   |    |            |    |                        |       |
| TOTAL FED                    | Federal Special Revenue  |    |            |    |                        | 80538 |
| Fund Group                   |  | \$ | 26,861,665 | \$ | 26,854,276             | 80539 |
|                              | State Special Revenue Fund Group                                   |    |            |    |                        | 80540 |
| 4E20 900602                  | Veterans' Homes  | \$ | 10,117,680 | \$ | 10,319,078             | 80541 |
|                              | Operating  |    |            |    |                        |       |
| 6040 900604                  | Veterans' Homes  | \$ | 347,598    | \$ | 398,731                | 80542 |
|                              | Improvement  |    |            |    |                        |       |
| TOTAL SSR                    | State Special Revenue  |    |            |    |                        | 80543 |
| Fund Group                   |  | \$ | 10,465,278 | \$ | 10,717,809             | 80544 |
|                              | Persian Gulf, Afghanistan, and Iraq Compensation Fund Group        |    |            |    |                        | 80545 |
| 7041 900615                  | Veteran Bonus Program  | \$ | 1,605,410  | \$ | 1,147,703              | 80546 |
|                              | - Administration   |    |            |    |                        |       |
| 7041 900641                  | Persian Gulf,  | \$ | 25,425,000 | \$ | 24,300,000             | 80547 |
|                              | Afghanistan, and Iraq  |    |            |    |                        |       |
|                              | Compensation   |    |            |    |                        |       |
| TOTAL 041                    | Persian Gulf,  |    |            |    |                        | 80548 |
|                              | Afghanistan, and Iraq  |    |            |    |                        | 80549 |
| Compensation Fund Group      |  | \$ | 27,030,410 | \$ | 25,447,703             | 80550 |
| TOTAL ALL BUDGET FUND GROUPS |  | \$ | 99,528,603 | \$ | <del>102,823,190</del> | 80551 |
|                              |  |    |            |    | <u>102,923,190</u>     |       |
|                              | PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL            |    |            |    |                        | 80552 |
|                              | OBLIGATION DEBT SERVICE  |    |            |    |                        | 80553 |
|                              | The foregoing appropriation item 900901, Persian Gulf,             |    |            |    |                        | 80554 |
|                              | Afghanistan and Iraq Compensation Debt Service, shall be used to   |    |            |    |                        | 80555 |
|                              | pay all debt service and related financing costs during the period |    |            |    |                        | 80556 |
|                              | from July 1, 2011, through June 30, 2013, on obligations issued    |    |            |    |                        | 80557 |
|                              | for Persian Gulf, Afghanistan and Iraq Conflicts Compensation      |    |            |    |                        | 80558 |
|                              | purposes under sections 151.01 and 151.12 of the Revised Code.     |    |            |    |                        | 80559 |

|  |                      |                       |                                      |                  |
|--|----------------------|-----------------------|--------------------------------------|------------------|
| <b>Sec. 415.10. DYS DEPARTMENT OF YOUTH SERVICES</b> |                      |                       |                                      | 80560            |
| General Revenue Fund                                 |                      |                       |                                      | 80561            |
| GRF  | 470401               | RECLAIM Ohio          | \$ 168,716,967 \$ 162,362,228        | 80562            |
| GRF  | 470412               | Lease Rental Payments | \$ 10,221,800 \$ 27,230,100          | 80563            |
| GRF  | 470510               | Youth Services        | \$ 16,702,728 \$ 16,702,728          | 80564            |
| GRF  | 472321               | Parole Operations     | \$ 10,830,019 \$ 10,583,118          | 80565            |
| GRF  | 477321               | Administrative        | \$ 12,222,051 \$ 11,855,389          | 80566            |
| Operations   |                      |                       |                                      |                  |
| TOTAL GRF  | General Revenue Fund |                       | \$ 218,693,565 \$ 228,733,563        | 80567            |
| General Services Fund Group                          |                      |                       |                                      | 80568            |
| 1750   | 470613               | Education             | \$ 8,160,277 \$ <del>8,151,056</del> | 80569            |
| Reimbursement  |                      |                       |                                      | <u>6,251,056</u> |
| 4790   | 470609               | Employee Food Service | \$ 150,000 \$ 150,000                | 80570            |
| 4A20   | 470602               | Child Support         | \$ 450,000 \$ 400,000                | 80571            |
| 4G60   | 470605               | General Operational   | \$ 125,000 \$ 125,000                | 80572            |
| Funds  |                      |                       |                                      |                  |
| 5BN0   | 470629               | E-Rate Program        | \$ 535,000 \$ 535,000                | 80573            |
| TOTAL GSF  | General Services     |                       |                                      | 80574            |
| Fund Group   |                      |                       | \$ 9,420,277 \$ <del>9,361,056</del> | 80575            |
|  |                      |                       |                                      | <u>7,461,056</u> |
| Federal Special Revenue Fund Group                   |                      |                       |                                      | 80576            |
| 3210   | 470601               | Education             | \$ 1,774,469 \$ 1,517,840            | 80577            |
| 3210   | 470603               | Juvenile Justice      | \$ 300,000 \$ 300,000                | 80578            |
| Prevention   |                      |                       |                                      |                  |
| 3210   | 470606               | Nutrition             | \$ 1,747,432 \$ <del>1,704,022</del> | 80579            |
|  |                      |                       |                                      | <u>1,400,000</u> |
| 3210   | 470610               | Rehabilitation        | \$ 36,000 \$ <del>36,000</del> 0     | 80580            |
| Programs   |                      |                       |                                      |                  |
| 3210   | 470614               | Title IV-E            | \$ 6,000,000 \$ 6,000,000            | 80581            |
| Reimbursements                                       |                      |                       |                                      |                  |
| 3BY0   | 470635               | Federal Juvenile      | \$ 56,471 \$ 2,000                   | 80582            |

|                       |        |                         |    |             |    |                        |       |
|-----------------------|--------|-------------------------|----|-------------|----|------------------------|-------|
|                       |        | Programs FFY 07         |    |             |    |                        |       |
| 3BZ0                  | 470636 | Federal Juvenile        | \$ | 82,000      | \$ | 1,618                  | 80583 |
|                       |        | Programs FFY 08         |    |             |    |                        |       |
| 3CP0                  | 470638 | Federal Juvenile        | \$ | 500,000     | \$ | 300,730                | 80584 |
|                       |        | Programs FFY 09         |    |             |    |                        |       |
| 3CR0                  | 470639 | Federal Juvenile        | \$ | 800,000     | \$ | 479,900                | 80585 |
|                       |        | Programs FFY 10         |    |             |    |                        |       |
| 3FB0                  | 470641 | Federal Juvenile        | \$ | 135,000     | \$ | 600,000                | 80586 |
|                       |        | Programs FFY 11         |    |             |    |                        |       |
| 3FC0                  | 470642 | Federal Juvenile        | \$ | 0           | \$ | 135,000                | 80587 |
|                       |        | Programs FFY 12         |    |             |    |                        |       |
| 3V50                  | 470604 | Juvenile                | \$ | 2,010,000   | \$ | 2,000,000              | 80588 |
|                       |        | Justice/Delinquency     |    |             |    |                        |       |
|                       |        | Prevention              |    |             |    |                        |       |
| TOTAL FED             |        | Federal Special Revenue |    |             |    |                        | 80589 |
| Fund Group            |        |                         | \$ | 13,441,372  | \$ | <del>13,077,110</del>  | 80590 |
|                       |        |                         |    |             |    | <u>12,737,088</u>      |       |
| State Special Revenue |        | Fund Group              |    |             |    |                        | 80591 |
| 1470                  | 470612 | Vocational Education    | \$ | 762,126     | \$ | 758,210                | 80592 |
| TOTAL SSR             |        | State Special Revenue   |    |             |    |                        | 80593 |
| Fund Group            |        |                         | \$ | 762,126     | \$ | 758,210                | 80594 |
| TOTAL ALL BUDGET      |        | FUND GROUPS             | \$ | 242,317,340 | \$ | <del>251,929,939</del> | 80595 |
|                       |        |                         |    |             |    | <u>249,689,917</u>     |       |

COMMUNITY PROGRAMS 80596

For purposes of implementing juvenile sentencing reforms, and 80597  
notwithstanding any provision of law to the contrary, the 80598  
Department of Youth Services may use up to forty-five per cent of 80599  
the unexpended, unencumbered balance of the portion of 80600  
appropriation item 470401, RECLAIM Ohio, that is allocated to 80601  
juvenile correctional facilities in each fiscal year to expand 80602  
Targeted RECLAIM, the Behavioral Health Juvenile Justice 80603  
Initiative, and other evidence-based community programs. 80604

OHIO BUILDING AUTHORITY LEASE PAYMENTS 80605

The foregoing appropriation item 470412, Lease Rental 80606  
Payments, shall be used to meet all payments at the times they are 80607  
required to be made for the period from July 1, 2011, through June 80608  
30, 2013, by the Department of Youth Services to the Ohio Building 80609  
Authority under the leases and agreements for facilities made 80610  
under Chapter 152. of the Revised Code. This appropriation is the 80611  
source of funds pledged for bond service charges on related 80612  
obligations issued pursuant to Chapter 152. of the Revised Code. 80613

EDUCATION REIMBURSEMENT 80614

The foregoing appropriation item 470613, Education 80615  
Reimbursement, shall be used to fund the operating expenses of 80616  
providing educational services to youth supervised by the 80617  
Department of Youth Services. Operating expenses include, but are 80618  
not limited to, teachers' salaries, maintenance costs, and 80619  
educational equipment. This appropriation item may be used for 80620  
capital expenses related to the education program. 80621

EMPLOYEE FOOD SERVICE AND EQUIPMENT 80622

Notwithstanding section 125.14 of the Revised Code, the 80623  
foregoing appropriation item 470609, Employee Food Service, may be 80624  
used to purchase any food operational items with funds received 80625  
into the fund from reimbursements for state surplus property. 80626

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES 80627

In collaboration with the county family and children first 80628  
council, the juvenile court of that county that receives 80629  
allocations from one or both of the foregoing appropriation items 80630  
470401, RECLAIM Ohio, and 470510, Youth Services, may transfer 80631  
portions of those allocations to a flexible funding pool as 80632  
authorized by the section of ~~this act~~ Am. Sub. H.B. 153 of the 80633  
129th General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE 80634  
FUNDING POOL." 80635

|  |       |
|--|-------|
| Sec. 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED              | 80636 |
| BALANCES OF OPERATING APPROPRIATIONS                               | 80637 |
| (A) An unexpended balance of an operating appropriation or         | 80638 |
| reappropriation that a state agency lawfully encumbered prior to   | 80639 |
| the close of a fiscal year is hereby reappropriated on the first   | 80640 |
| day of July of the following fiscal year from the fund from which  | 80641 |
| it was originally appropriated or reappropriated for the following | 80642 |
| period and shall remain available only for the purpose of          | 80643 |
| discharging the encumbrance:                                       | 80644 |
| (1) For an encumbrance for personal services, maintenance,         | 80645 |
| equipment, or items for resale, other than an encumbrance for an   | 80646 |
| item of special order manufacture not available on term contract   | 80647 |
| or in the open market or for reclamation of land or oil and gas    | 80648 |
| wells, for a period of not more than five months from the end of   | 80649 |
| the fiscal year;   | 80650 |
| (2) For an encumbrance for an item of special order                | 80651 |
| manufacture not available on term contract or in the open market,  | 80652 |
| for a period of not more than five months from the end of the      | 80653 |
| fiscal year or, with the written approval of the Director of       | 80654 |
| Budget and Management, for a period of not more than twelve months | 80655 |
| from the end of the fiscal year;                                   | 80656 |
| (3) For an encumbrance for reclamation of land or oil and gas      | 80657 |
| wells, for a period ending when the encumbered appropriation is    | 80658 |
| expended or for a period of two years, whichever is less;          | 80659 |
| (4) For an encumbrance for any other expense, for such period      | 80660 |
| as the Director approves, provided such period does not exceed two | 80661 |
| years.   | 80662 |
| (B) Any operating appropriations for which unexpended              | 80663 |
| balances are reappropriated beyond a five-month period from the    | 80664 |
| end of the fiscal year by division (A)(2) of this section shall be | 80665 |

reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

(C) Upon the expiration of the reappropriation period set out in division (A) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

(D) Notwithstanding division (C) of this section, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (A)(3) or (4) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (A)(3) or (4) of this section and shall remain available only for the purpose of discharging the encumbrance.

(E) The Director of Budget and Management may correct accounting errors committed by the staff of the Office of Budget and Management, such as ~~re-establishing~~ reestablishing encumbrances or appropriations cancelled in error, during the cancellation of operating encumbrances in November and of nonoperating encumbrances in December.

(F) The Director of Budget and Management may at any time correct accounting errors committed by the staff of a state institution of higher education, as defined in section 3345.011 of the Revised Code, such as reestablishing prior year nonoperating

encumbrances canceled or modified in error. The reestablished 80698  
encumbrance amounts are hereby appropriated. 80699

(G) If the Controlling Board approved a purchase, that 80700  
approval remains in effect so long as the appropriation used to 80701  
make that purchase remains encumbered. 80702

**Sec. 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS** 80703

(A) The Office of Internal Auditing within the Office of 80704  
Budget and Management shall, in connection with its duties under 80705  
sections 126.45 to 126.48 of the Revised Code, monitor and measure 80706  
the effectiveness of funds allocated to the state as part of the 80707  
federal American Recovery and Reinvestment Act of 2009. As such, 80708  
the Office of Internal Auditing shall review how funds allocated 80709  
to each state agency are spent. For purposes of this section, 80710  
"state agency" has the same meaning as in division (A) of section 80711  
126.45 of the Revised Code. 80712

In addition to the reports required under section 126.47 of 80713  
the Revised Code, the Office of Internal Auditing shall ~~submit~~ 80714  
prepare a report of its findings for the period beginning July 1, 80715  
2011, and ending December 31, 2011. The Office shall submit the 80716  
report to the President of the Senate, Minority Leader of the 80717  
Senate, Speaker of the House of Representatives, Minority Leader 80718  
of the House of Representatives, and the Chairs of the committees 80719  
in the Senate and House of Representatives handling finance and 80720  
appropriations. ~~The report shall be submitted every six months at~~ 80721  
~~the following intervals:~~ 80722

~~(1) For the six month period ending December 31, 2011, not~~ 80723  
~~later than by February 1, 2012;~~ 80724

~~(2) For the six month period ending June 30, 2012, not later~~ 80725  
~~than August 1, 2012;~~ 80726

~~(3) For the six month period ending December 31, 2012, not~~ 80727

~~later than February 1, 2013;~~ 80728

~~(4) For the six month period ending June 30, 2013, not later than August 1, 2013.~~ 80729  
80730

(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 government, the Office of Budget and Management shall also submit those reports 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 Chairs and ranking members of the committees in the Senate and House of Representatives handling finance and appropriations. The Office of Budget and Management shall continue to submit quarterly reports to the legislature for the duration of the period in which the state of Ohio is required to make reports to the federal government concerning Ohio's use of the federal American Recovery and Reinvestment Act of 2009 funds. 80731  
80732  
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**Section 601.41.** That existing 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, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 267.30.20, 267.30.40, 279.10, 283.10, 287.10, 291.10, 307.10, 309.10, 309.30.30, 309.30.33, 309.30.53, 309.30.73, 313.10, 315.10, 323.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65, 80748  
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371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 80759  
503.50, and 521.70 of Am. Sub. H.B. 153 of the 129th General 80760  
Assembly are hereby repealed. 80761

**Section 601.43.** That Section 247.10 of Am. Sub. H.B. 153 of 80762  
the 129th General Assembly, as amended by Sub. H.B. 319 of the 80763  
129th General Assembly, be amended to read as follows: 80764

**Sec. 247.10.** CEB CONTROLLING BOARD 80765

General Revenue Fund 80766

|     |        |                    |    |           |    |   |       |
|-----|--------|--------------------|----|-----------|----|---|-------|
| GRF | 911404 | Mandate Assistance | \$ | 2,750,000 | \$ | 0 | 80767 |
|-----|--------|--------------------|----|-----------|----|---|-------|

|     |        |                    |    |         |    |         |       |
|-----|--------|--------------------|----|---------|----|---------|-------|
| GRF | 911441 | Ballot Advertising | \$ | 475,000 | \$ | 475,000 | 80768 |
|-----|--------|--------------------|----|---------|----|---------|-------|

Costs

|           |                      |    |           |    |         |       |
|-----------|----------------------|----|-----------|----|---------|-------|
| TOTAL GRF | General Revenue Fund | \$ | 3,225,000 | \$ | 475,000 | 80769 |
|-----------|----------------------|----|-----------|----|---------|-------|

General Services Fund Group 80770

|      |        |                       |    |            |    |            |       |
|------|--------|-----------------------|----|------------|----|------------|-------|
| 5KM0 | 911614 | CB Emergency Purposes | \$ | 10,000,000 | \$ | 10,000,000 | 80771 |
|------|--------|-----------------------|----|------------|----|------------|-------|

|           |                       |    |            |    |            |       |
|-----------|-----------------------|----|------------|----|------------|-------|
| TOTAL GSF | General Services Fund | \$ | 10,000,000 | \$ | 10,000,000 | 80772 |
|-----------|-----------------------|----|------------|----|------------|-------|

Group

|                              |    |            |    |            |       |
|------------------------------|----|------------|----|------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ | 13,225,000 | \$ | 10,475,000 | 80773 |
|------------------------------|----|------------|----|------------|-------|

FEDERAL SHARE 80774

In transferring appropriations to or from appropriation items 80775  
that have federal shares identified in this act, the Controlling 80776  
Board shall add or subtract corresponding amounts of federal 80777  
matching funds at the percentages indicated by the state and 80778  
federal division of the appropriations in this act. Such changes 80779  
are hereby appropriated. 80780

REDISTRICTING IMPLEMENTATION 80781

The foregoing appropriation item 911404, Mandate Assistance, 80782  
shall be used in a method prescribed by the Secretary of State and 80783  
transferred by the Director of Budget and Management to implement 80784  
this act, which includes remapping and reprecincting counties, and 80785

reprogramming database systems and voting machines. At the end of 80786  
fiscal year 2012, an amount equal to the unexpended, unencumbered 80787  
portion of appropriation item 911404, Mandate Assistance, is 80788  
hereby reappropriated in fiscal year 2013 for the same purpose. 80789

DISASTER SERVICES 80790

Pursuant to requests submitted by the Department of Public 80791  
Safety, the Controlling Board may approve transfers from the 80792  
Disaster Services Fund (5E20) to a fund and appropriation item 80793  
used by the Department of Public Safety to provide for assistance 80794  
to political subdivisions made necessary by natural disasters or 80795  
emergencies. These transfers may be requested and approved prior 80796  
to the occurrence of any specific natural disasters or emergencies 80797  
in order to facilitate the provision of timely assistance. The 80798  
Emergency Management Agency of the Department of Public Safety 80799  
shall use the funding to fund the State Disaster Relief Program 80800  
for disasters that have been declared by the Governor, and the 80801  
State Individual Assistance Program for disasters that have been 80802  
declared by the Governor and the federal Small Business 80803  
Administration. The Ohio Emergency Management Agency shall publish 80804  
and make available application packets outlining procedures for 80805  
the State Disaster Relief Program and the State Individual 80806  
Assistance Program. 80807

Fund 5E20 shall be used by the Controlling Board, pursuant to 80808  
requests submitted by state agencies, to transfer cash and 80809  
appropriations to any fund and appropriation item for the payment 80810  
of state agency disaster relief program expenses for disasters 80811  
declared by the Governor, if the Director of Budget and Management 80812  
determines that sufficient funds exist. 80813

Upon the request of the Department of Public Safety, the 80814  
Controlling Board may release up to \$3,000,000 for Blanchard River 80815  
flood mitigation projects. 80816

|  |   |
|--|---|
| BALLOT ADVERTISING COSTS   | 80817   |
| Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.   | 80818<br>80819<br>80820<br>80821<br>80822<br>80823                            |
| CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY  | 80824<br>80825  |
| A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds. | 80826<br>80827<br>80828<br>80829<br>80830<br>80831<br>80832<br>80833<br>80834 |
| <b>Section 601.44.</b> That existing Section 247.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 319 of the 129th General Assembly, is hereby repealed.   | 80835<br>80836<br>80837   |
| <b>Section 601.46.</b> That Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 371 of the 129th General Assembly, be amended to read as follows:  | 80838<br>80839<br>80840<br>80841  |
| <b>Sec. 261.10.</b> DEV <del>DEPARTMENT OF</del> DEVELOPMENT <u>SERVICES AGENCY</u>  | 80842   |
| General Revenue Fund   | 80843   |
| GRF 195401 Thomas Edison Program \$ 14,820,354 \$ 0  | 80844   |
| GRF 195402 Coal <del>Development</del> \$ 260,983 \$ 261,205   | 80845   |

|     |                   | <u>Office Research</u>   |    |              |                                  |       |
|-----|-------------------|--|----|--------------|----------------------------------|-------|
|     |                   | <u>Operating</u>   |    |              |                                  |       |
| GRF | 195404            | Small Business Development   | \$ | 1,565,770    | \$ 0                             | 80846 |
| GRF | 195405            | Minority Business Enterprise Division                                | \$ | 1,118,528    | \$ 0                             | 80847 |
| GRF | 195407            | Travel and Tourism   | \$ | 5,000,000    | \$ <del>0</del> <u>5,000,000</u> | 80848 |
| GRF | 195412            | Rapid Outreach Grants  | \$ | 9,000,000    | \$ 0                             | 80849 |
| GRF | 195415            | <del>Strategie</del> Business  | \$ | 4,500,000    | \$ <del>0</del> <u>2,413,387</u> | 80850 |
|     |                   | <u>Investment Division and Regional Offices Development Services</u> |    |              |                                  |       |
| GRF | 195416            | Governor's Office of Appalachia                                      | \$ | 3,700,000    | \$ <del>3,700,000</del> <u>0</u> | 80851 |
| GRF | 195422            | Technology Action  | \$ | 547,341      | \$ 0                             | 80852 |
| GRF | 195426            | Clean Ohio Implementation  | \$ | 468,365      | \$ <del>0</del> <u>468,365</u>   | 80853 |
| GRF | 195432            | Global Markets   | \$ | 3,500,000    | \$ 0                             | 80854 |
| GRF | 195434            | Industrial Training Grants   | \$ | 10,000,000   | \$ 0                             | 80855 |
| GRF | 195497            | CDBG Operating Match   | \$ | 1,015,000    | \$ <del>0</del> <u>1,015,000</u> | 80856 |
| GRF | 195501            | Appalachian Local Development Districts                              | \$ | 391,482      | \$ <del>391,482</del> <u>0</u>   | 80857 |
| GRF | 195502            | Appalachian Regional Commission Dues                                 | \$ | 195,000      | \$ <del>195,000</del> <u>0</u>   | 80858 |
| GRF | <del>195528</del> | <del>Economic Development Projects</del>                             | \$ | <del>0</del> | \$ <del>26,943,518</del>         | 80859 |
| GRF | <u>195532</u>     | <u>Technology Programs and Grants</u>                                | \$ | <u>0</u>     | \$ <u>13,547,341</u>             | 80860 |
| GRF | <u>195533</u>     | <u>Business Assistance</u>   | \$ | <u>0</u>     | \$ <u>5,899,465</u>              | 80861 |
| GRF | <u>195535</u>     | <u>Appalachia Assistance</u>   | \$ | <u>0</u>     | \$ <u>4,286,482</u>              | 80862 |
| GRF | 195901            | Coal Research & Development General                                  | \$ | 7,861,100    | \$ 5,577,700                     | 80863 |

|           |                       |                                    |    |             |    |                              |
|-----------|-----------------------|------------------------------------|----|-------------|----|------------------------------|
|           |                       | Obligation Debt                    |    |             |    |                              |
|           |                       | Service                            |    |             |    |                              |
| GRF       | 195905                | Third Frontier                     | \$ | 29,323,300  | \$ | 63,640,300 80864             |
|           |                       | Research &                         |    |             |    |                              |
|           |                       | Development General                |    |             |    |                              |
|           |                       | Obligation Debt                    |    |             |    |                              |
|           |                       | Service                            |    |             |    |                              |
| GRF       | 195912                | Job Ready Site                     | \$ | 9,859,200   | \$ | 15,680,500 80865             |
|           |                       | Development General                |    |             |    |                              |
|           |                       | Obligation Debt                    |    |             |    |                              |
|           |                       | Service                            |    |             |    |                              |
| TOTAL GRF | General Revenue Fund  |                                    | \$ | 103,126,423 | \$ | <del>116,389,705</del> 80866 |
|           |                       |                                    |    |             |    | <u>118,039,745</u>           |
|           |                       | General Services Fund Group        |    |             |    | 80867                        |
| 1350      | 195684                | <del>Supportive</del>              | \$ | 11,700,000  | \$ | 11,700,000 80868             |
|           |                       | <u>Development Services</u>        |    |             |    |                              |
|           |                       | <u>Operations</u>                  |    |             |    |                              |
| 4W10      | 195646                | Minority Business                  | \$ | 2,500,000   | \$ | 2,500,000 80869              |
|           |                       | Enterprise Loan                    |    |             |    |                              |
| 5AD0      | 195633                | Legacy Projects                    | \$ | 15,000,000  | \$ | <del>15,000,000</del> 80870  |
|           |                       |                                    |    |             |    | <u>18,600,000</u>            |
| 5AD0      | 195677                | Economic Development               | \$ | 10,000,000  | \$ | 0 80871                      |
|           |                       | Contingency                        |    |             |    |                              |
| 5W50      | 195690                | Travel and Tourism                 | \$ | 50,000      | \$ | 50,000 80872                 |
|           |                       | Cooperative Projects               |    |             |    |                              |
| 6850      | 195636                | <del>Direct Cost Recovery</del>    | \$ | 750,000     | \$ | 750,000 80873                |
|           |                       | <u>Development Services</u>        |    |             |    |                              |
|           |                       | <u>Reimbursable</u>                |    |             |    |                              |
|           |                       | Expenditures                       |    |             |    |                              |
| TOTAL GSF | General Services Fund |                                    |    |             |    | 80874                        |
| Group     |                       |                                    | \$ | 40,000,000  | \$ | <del>30,000,000</del> 80875  |
|           |                       |                                    |    |             |    | <u>33,600,000</u>            |
|           |                       | Federal Special Revenue Fund Group |    |             |    | 80876                        |

|             |               |   |           |             |           |                         |       |
|-------------|---------------|---|-----------|-------------|-----------|-------------------------|-------|
| 3080        | 195602        | Appalachian Regional<br>Commission  | \$        | 475,000     | \$        | 475,000                 | 80877 |
| 3080        | 195603        | Housing <del>and Urban</del><br><u>Development</u><br><u>Assistance Programs</u>        | \$        | 6,000,000   | \$        | 6,000,000               | 80878 |
| 3080        | 195605        | Federal Projects  | \$        | 85,028,606  | \$        | <del>85,470,106</del> 0 | 80879 |
| 3080        | 195609        | Small Business<br>Administration <u>Grants</u>  | \$        | 6,438,143   | \$        | 5,511,381               | 80880 |
| 3080        | 195618        | Energy <del>Federal</del> Grants  | \$        | 38,000,000  | \$        | 3,400,000               | 80881 |
| <u>3080</u> | <u>195670</u> | <u>Home Weatherization</u><br><u>Program</u>  | <u>\$</u> | <u>0</u>    | <u>\$</u> | <u>72,670,106</u>       | 80882 |
| <u>3080</u> | <u>195671</u> | <u>Brownfield</u><br><u>Redevelopment</u>   | <u>\$</u> | <u>0</u>    | <u>\$</u> | <u>6,800,000</u>        | 80883 |
| <u>3080</u> | <u>195672</u> | <u>Manufacturing</u><br><u>Extension Partnership</u>                                    | <u>\$</u> | <u>0</u>    | <u>\$</u> | <u>6,000,000</u>        | 80884 |
| 3350        | 195610        | Energy <del>Conservation</del><br><del>and Emerging</del><br><u>Technology Programs</u> | \$        | 1,100,000   | \$        | 1,100,000               | 80885 |
| 3AE0        | 195643        | Workforce Development<br>Initiatives  | \$        | 16,300,000  | \$        | 16,300,000              | 80886 |
| 3DB0        | 195642        | Federal Stimulus -<br>Energy Efficiency &<br>Conservation Block<br>Grants               | \$        | 3,000,000   | \$        | 42,485                  | 80887 |
| 3EG0        | 195608        | <del>Federal</del> Energy <u>Sector</u><br>Training <u>Grants</u>                       | \$        | 5,000,000   | \$        | 1,344,056               | 80888 |
| 3K80        | 195613        | Community Development<br>Block Grant  | \$        | 76,795,818  | \$        | 65,210,000              | 80889 |
| 3K90        | 195611        | Home Energy<br>Assistance Block<br>Grant  | \$        | 115,743,608 | \$        | 115,743,608             | 80890 |
| 3K90        | 195614        | HEAP Weatherization   | \$        | 22,000,000  | \$        | 22,000,000              | 80891 |
| 3L00        | 195612        | Community Services  | \$        | 27,240,217  | \$        | 27,240,217              | 80892 |

|                                  |               | Block Grant                       |                |                           |       |
|----------------------------------|---------------|-----------------------------------|----------------|---------------------------|-------|
| 3V10                             | 195601        | HOME Program                      | \$ 40,000,000  | \$ 40,000,000             | 80893 |
| TOTAL FED                        |               | Federal Special Revenue           |                |                           | 80894 |
| Fund Group                       |               |                                   | \$ 443,121,392 | \$ 389,836,853            | 80895 |
| State Special Revenue Fund Group |               |                                   |                |                           | 80896 |
| 4500                             | 195624        | Minority Business                 | \$ 160,110     | \$ 159,069                | 80897 |
|                                  |               | Bonding Program                   |                |                           |       |
|                                  |               | Administration                    |                |                           |       |
| 4510                             | 195625        | Economic Development              | \$ 3,000,000   | \$ <del>3,000,000</del> 0 | 80898 |
|                                  |               | Financing Operating               |                |                           |       |
| <u>4510</u>                      | <u>195649</u> | <u>Business Assistance</u>        | \$ 0           | \$ <u>3,700,800</u>       | 80899 |
|                                  |               | <u>Programs</u>                   |                |                           |       |
| 4F20                             | 195639        | State Special Projects            | \$ 180,437     | \$ 180,436                | 80900 |
| 4F20                             | 195676        | Marketing Initiatives             | \$ 5,000,000   | \$ 0                      | 80901 |
| 4F20                             | 195699        | Utility <del>Provided Funds</del> | \$ 500,000     | \$ 500,000                | 80902 |
|                                  |               | <u>Community Assistance</u>       |                |                           |       |
| 4S00                             | 195630        | Tax Incentive Programs            | \$ 650,800     | \$ <del>650,800</del> 0   | 80903 |
| 5CG0                             | 195679        | Alternative Fuel                  | \$ 750,000     | \$ 750,000                | 80904 |
|                                  |               | Transportation                    |                |                           |       |
| 5HJ0                             | 195604        | Motion Picture Tax                | \$ 50,000      | \$ <del>50,000</del> 0    | 80905 |
|                                  |               | Credit Program                    |                |                           |       |
| 5HR0                             | 195526        | <del>Ohio Incumbent</del>         | \$ 20,000,000  | \$ 30,000,000             | 80906 |
|                                  |               | Workforce <del>Job</del> Training |                |                           |       |
|                                  |               | <u>Vouchers</u>                   |                |                           |       |
| 5HR0                             | 195622        | Defense Development               | \$ 5,000,000   | \$ 5,000,000              | 80907 |
|                                  |               | Assistance                        |                |                           |       |
| <u>5JR0</u>                      | <u>195635</u> | <u>Redevelopment Program</u>      | \$ 0           | \$ <u>100,000</u>         | 80908 |
|                                  |               | <u>Support</u>                    |                |                           |       |
| 5JR0                             | 195656        | New Market Tax Credit             | \$ 50,000      | \$ <del>50,000</del> 0    | 80909 |
|                                  |               | Program                           |                |                           |       |
| 5KD0                             | 195621        | Brownfield Stormwater             | \$ 50,000      | \$ <del>50,000</del> 0    | 80910 |
|                                  |               | Loan                              |                |                           |       |
| 5KN0                             | 195640        | Local Government                  | \$ 175,000     | \$ 44,825,000             | 80911 |

|                                     |        |                                 |    |             |    |                        |                    |
|-------------------------------------|--------|---------------------------------|----|-------------|----|------------------------|--------------------|
|                                     |        | Innovation                      |    |             |    |                        |                    |
| 5LK0                                | 195655 | <u>Workforce Development</u>    | \$ | 0           | \$ | <u>10,000,000</u>      | 80912              |
|                                     |        | <u>Programs</u>                 |    |             |    |                        |                    |
| 5M40                                | 195659 | Low Income Energy               | \$ | 245,000,000 | \$ | 245,000,000            | 80913              |
|                                     |        | Assistance ( <u>USF</u> )       |    |             |    |                        |                    |
| 5M50                                | 195660 | Advanced Energy <u>Loan</u>     | \$ | 8,000,000   | \$ | 0                      | 80914              |
|                                     |        | Programs                        |    |             |    |                        |                    |
| 5W60                                | 195691 | International Trade             | \$ | 160,000     | \$ | 160,000                | 80915              |
|                                     |        | Cooperative Projects            |    |             |    |                        |                    |
| 6170                                | 195654 | Volume Cap                      | \$ | 94,397      | \$ | 92,768                 | 80916              |
|                                     |        | Administration                  |    |             |    |                        |                    |
| 6460                                | 195638 | Low- and Moderate-              | \$ | 53,000,000  | \$ | 53,000,000             | 80917              |
|                                     |        | Income Housing Trust            |    |             |    |                        |                    |
|                                     |        | Fund                            |    |             |    |                        |                    |
| TOTAL SSR State Special Revenue     |        |                                 |    |             |    |                        | 80918              |
| Fund Group                          |        |                                 | \$ | 341,820,744 | \$ | <del>383,468,073</del> | 80919              |
|                                     |        |                                 |    |             |    |                        | <u>393,468,073</u> |
| Facilities Establishment Fund Group |        |                                 |    |             |    |                        | 80920              |
| 5S90                                | 195628 | Capital Access Loan             | \$ | 1,500,000   | \$ | 1,500,000              | 80921              |
|                                     |        | Program                         |    |             |    |                        |                    |
| 7009                                | 195664 | Innovation Ohio                 | \$ | 15,000,000  | \$ | 15,000,000             | 80922              |
| 7010                                | 195665 | Research and                    | \$ | 22,000,000  | \$ | 22,000,000             | 80923              |
|                                     |        | Development                     |    |             |    |                        |                    |
| 7037                                | 195615 | Facilities                      | \$ | 50,000,000  | \$ | 50,000,000             | 80924              |
|                                     |        | Establishment                   |    |             |    |                        |                    |
| TOTAL 037 Facilities                |        |                                 |    |             |    |                        | 80925              |
| Establishment Fund Group            |        |                                 | \$ | 88,500,000  | \$ | 88,500,000             | 80926              |
| Clean Ohio Revitalization Fund      |        |                                 |    |             |    |                        | 80927              |
| 7003                                | 195663 | Clean Ohio <del>Operating</del> | \$ | 950,000     | \$ | 950,000                | 80928              |
|                                     |        | <u>Program</u>                  |    |             |    |                        |                    |
| TOTAL 7003 Clean Ohio               |        |                                 | \$ | 950,000     | \$ | 950,000                | 80929              |
| Revitalization Fund                 |        |                                 |    |             |    |                        |                    |

|  |        |   |  |       |
|--|--------|---|--|-------|
| Third Frontier Research & Development Fund Group |        |   |  | 80930 |
| 7011   | 195686 | Third Frontier                                      | \$ 1,149,750 \$ 1,149,750                    | 80931 |
|  |        | Operating   |  |       |
| 7011   | 195687 | Third Frontier                                      | \$ 183,850,250 \$ 133,850,250                | 80932 |
|  |        | Research &<br>Development Projects                  |  |       |
| 7014   | 195620 | Third Frontier                                      | \$ 1,700,000 \$ 1,700,000                    | 80933 |
|  |        | Operating - Tax                                     |  |       |
| 7014   | 195692 | Research &  | \$ 38,300,000 \$ 38,300,000                  | 80934 |
|  |        | Development Taxable<br>Bond Projects                |  |       |
| TOTAL  | 011    | Third Frontier Research &<br>Development Fund Group | \$ 225,000,000 \$ 175,000,000                | 80935 |
| Job Ready Site Development Fund Group            |        |   |  | 80936 |
| 7012   | 195688 | Job Ready Site                                      | \$ 800,000 \$ 800,000                        | 80937 |
|  |        | <del>Operating</del> <u>Program</u>                 |  |       |
| TOTAL  | 012    | Job Ready Site<br>Development Fund Group            | \$ 800,000 \$ 800,000                        | 80938 |
| Tobacco Master Settlement Agreement Fund Group   |        |   |  | 80939 |
| M087   | 195435 | Biomedical Research                                 | \$ 1,999,224 \$ 1,999,224                    | 80940 |
|  |        | and Technology<br>Transfer                          |  |       |
| TOTAL  | TSF    | Tobacco Master Settlement<br>Agreement Fund Group   | \$ 1,999,224 \$ 1,999,224                    | 80941 |
| TOTAL  | ALL    | BUDGET FUND GROUPS                                  | \$ 1,245,317,783 \$ <del>1,186,943,855</del> | 80942 |
|  |        |   | <u>1,202,193,895</u>                         |       |

**Sec. 261.20.93.** LOCAL GOVERNMENT INNOVATION FUND 80944

The foregoing appropriation item 195640, Local Government 80945  
 Innovation, shall be used for the purposes of making loans and 80946  
 grants to political subdivisions under the Local Government 80947  
 Innovation Program in accordance with sections 189.01 to 189.10 of 80948

the Revised Code. Of the foregoing appropriation item 195640, 80949  
 Local Government Innovation, up to \$175,000 in fiscal year 2012 80950  
 and \$175,000 in fiscal year 2013 shall be used for administrative 80951  
 costs incurred by the ~~Department of~~ Development Services Agency. 80952

On the effective date of this amendment, or as soon as 80953  
 possible thereafter, the Director of Budget and Management shall 80954  
 transfer \$175,000 in cash from the General Revenue Fund to the 80955  
 Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or 80956  
 as soon as possible thereafter, the Director of Budget and 80957  
 Management shall transfer \$44,825,000 in cash from the General 80958  
 Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). 80959

**Section 601.47.** That existing Sections 261.10 and 261.20.93 80960  
 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 80961  
 Sub. H.B. 371 of the 129th General Assembly, are hereby repealed. 80962

**Section 601.50.** That Section 4 of Sub. S.B. 171 of the 129th 80963  
 General Assembly be amended to read as follows: 80964

**Sec. 4.** The following agencies are retained under division 80965  
 (D) of section 101.83 of the Revised Code and expire on December 80966  
 31, 2016: 80967

| AGENCY NAME  | REVISED CODE OR<br>UNCODIFIED<br>SECTION |       |
|--|--|-------|
| Academic Distress Commission   | 3302.10                                  | 80969 |
| Advisory Board of Governor's Office of<br>Faith-Based and Community Initiatives                            | 107.12                                   | 80970 |
| Advisory Board to Assist and Advise in the<br>Operation of the Ohio Center for Autism and Low<br>Incidence | 3323.33, 3323.34                         | 80971 |
| Advisory Council on Amusement Ride Safety  | 1711.51, 1711.52                         | 80972 |
| Advisory Council of Directors for Prison Labor   | 5145.162                                 | 80973 |

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|--|--|-------|
| Advisory Council for Wild, Scenic, or<br>Recreational River Area(s)                        | 1547.84                                  | 80974 |
| Advisory Committee on Livestock Exhibitions  | 901.71                                   | 80975 |
| Agricultural Commodity Marketing Programs<br>Operating Committees                          | 924.07                                   | 80976 |
| Agricultural Commodity Marketing Programs<br>Coordinating Committee                        | 924.14                                   | 80977 |
| Alternative Energy Advisory Committee  | 4928.64(D)                               | 80978 |
| AMBER Alert Advisory Committee   | 5502.521                                 | 80979 |
| Apprenticeship Council   | Chapter 4139.                            | 80980 |
| Armory Board of Control  | 5911.09, 5911.12                         | 80981 |
| Automated Title Processing Board   | 4505.09(C)(1)                            | 80982 |
| Backflow Advisory Board  | 3703.21                                  | 80983 |
| Banking Commission   | 1123.01                                  | 80984 |
| Board of Directors of the Great Lakes Protection<br>Fund                                   | 1506.22<br>(6161.04)                     | 80985 |
| Board of Directors of the Medical Liability<br>Underwriting Association Stabilization Fund | 3929.631                                 | 80986 |
| Board of Directors of the Ohio Appalachian Center<br>for Higher Education                  | 3333.58                                  | 80987 |
| Board of Directors of the Ohio Health Reinsurance<br>Program                               | 3924.08 -<br>3924.11                     | 80988 |
| Board of Governors of the Commercial Insurance<br>Joint Underwriting Association           | 3930.03                                  | 80989 |
| Board of Governors of the Medical Liability<br>Underwriting Association                    | 3929.64                                  | 80990 |
| Board of Voting Machines Examiners   | 3506.05                                  | 80991 |
| Budget Planning and Management Commission  | Section 509.10,<br>H.B. 1, 128th<br>G.A. | 80992 |
| Brain Injury Advisory Committee  | 3304.231                                 | 80993 |
| Bureau of Workers' Compensation Board of<br>Directors                                      | 4121.12                                  | 80994 |

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|---|-----------------------|-------|
| Capitol Square Review and Advisory Board                              | 105.41                | 80995 |
| Child Care Advisory Council   | 5104.08               | 80996 |
| Child Support Guideline Advisory Council                              | 3119.024              | 80997 |
| Children's Trust Fund Board   | 3109.15 -<br>3109.17  | 80998 |
| Citizen's Advisory Council  | 5123.092,<br>5123.093 | 80999 |
| Clean Ohio Trail Advisory Board                                       | 1519.06               | 81000 |
| Coastal Resources Advisory Council                                    | 1506.12               | 81001 |
| Commission on African-American Males                                  | 4112.12, 4112.13      | 81002 |
| Commission on Hispanic-Latino Affairs                                 | 121.31                | 81003 |
| Commission on Minority Health   | 3701.78               | 81004 |
| Committee on Prescriptive Governance                                  | 4723.49 -<br>4723.492 | 81005 |
| Commodity Advisory Commission   | 926.32                | 81006 |
| Consumer Advisory Committee to the Rehabilitation Services Commission | 3304.24               | 81007 |
| Continuing Education Committee  | 109.80(B)             | 81008 |
| Council on Alcohol and Drug Addiction Services                        | 3793.09               | 81009 |
| Council on Unreclaimed Strip Mined Lands                              | 1513.29               | 81010 |
| County Sheriff's Standard Car Marking and Uniform Commission          | 311.25 - 311.27       | 81011 |
| Credential Review Board   | 3319.65               | 81012 |
| Credit Union Council  | 1733.329              | 81013 |
| Criminal Sentencing Advisory Committee                                | 181.22                | 81014 |
| Data Collection and Analysis Group                                    | 3727.32               | 81015 |
| Dentist Loan Repayment Advisory Board                                 | 3702.92               | 81016 |
| Department Advisory Council(s)  | 107.18, 121.13        | 81017 |
| Development Financing Advisory Council                                | 122.40, 122.41        | 81018 |
| Early Childhood Advisory Council                                      | 3301.90               | 81019 |
| Education Commission of the States (Interstate Compact for Education) | 3301.48, 3301.49      | 81020 |
| Education Management Information System Advisory                      | 3301.0713             | 81021 |

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|--|---|-------|
| Board  |   |       |
| Educator Standards Board   | 3319.60                                 | 81022 |
| Electrical Safety Inspector Advisory Committee   | 3783.08                                 | 81023 |
| Emergency Response Commission  | 3750.02                                 | 81024 |
| Engineering Experiment Station Advisory Committee  | 3335.27                                 | 81025 |
| Environmental Education Council  | 3745.21                                 | 81026 |
| Environmental Protection Agency Advisory Board(s)  | 121.13, 3704.03,<br>3745.01             | 81027 |
| eTech Ohio Commission  | 3353.02 -<br>3353.04                    | 81028 |
| Ex-Offender Reentry Coalition  | 5120.07                                 | 81029 |
| Farmland Preservation Advisory Board   | 901.23                                  | 81030 |
| Financial Planning and Supervision Commission(s)<br>for Municipal Corporation, County, or Township   | 118.05                                  | 81031 |
| Financial Planning and Supervision Commission for<br>a school district                               | 3316.05                                 | 81032 |
| Forestry Advisory Council  | 1503.40                                 | 81033 |
| Governance Authority for a State University or<br>College  | 3345.75                                 | 81034 |
| Governor's Council on People with Disabilities   | 3303.41                                 | 81035 |
| Governor's Policy Information Working Group  | Section 313,<br>H.B. 420, 127th<br>G.A. | 81036 |
| Governor's Residence Advisory Commission   | 107.40                                  | 81037 |
| Grain Marketing Program Operating Committee  | 924.20 - 924.30                         | 81038 |
| Great Lakes Commission (Great Lakes Basin<br>Compact)  | 6161.01                                 | 81039 |
| Gubernatorial Transition Committee   | 107.29, 126.26                          | 81040 |
| Help Me Grow Advisory Council  | 3701.611                                | 81041 |
| Hemophilia Advisory Subcommittee of the Medically<br>Handicapped Children's Medical Advisory Council | 3701.0210                               | 81042 |
| Homeland Security Advisory Council   | 5502.011(E)                             | 81043 |
| Hospital Measures Advisory Council   | 3727.31                                 | 81044 |

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|---|---|-------|
| Housing Trust Fund Advisory Committee   | 174.06                                    | 81045 |
| Industrial Commission Nominating Council  | 4121.04                                   | 81046 |
| Industrial Technology and Enterprise Advisory Council                               | 122.29, 122.30                            | 81047 |
| Infant Hearing Screening Subcommittee   | 3701.507                                  | 81048 |
| Infection Control Group   | 3727.312(D)                               | 81049 |
| Insurance Agent Education Advisory Council  | 3905.483                                  | 81050 |
| Interstate Rail Passenger Advisory Council  | 4981.35                                   | 81051 |
| Joint Select Committee on Volume Cap  | 133.021                                   | 81052 |
| Labor-Management Government Advisory Council  | 4121.70                                   | 81053 |
| Legislative Programming Committee of the Ohio Government Telecommunications Service | 3353.07                                   | 81054 |
| Legislative Task Force on Redistricting, Reapportionment, and Demographic Research  | 103.51                                    | 81055 |
| Maternity and Newborn Advisory Council  | 3711.20, 3711.21                          | 81056 |
| Medically Handicapped Children's Medical Advisory Council                           | 3701.025                                  | 81057 |
| Midwest Interstate Passenger Rail Compact Commission                                | 4981.361                                  | 81058 |
| Milk Sanitation Board   | 917.03 - 917.032                          | 81059 |
| Mine Subsidence Insurance Governing Board   | 3929.51                                   | 81060 |
| Minority Development Financing Advisory Board                                       | 122.72, 122.73                            | 81061 |
| Multi-Agency Radio Communications System (MARCS) Steering Committee                 | Section 15.02,<br>H.B. 640, 123rd<br>G.A. | 81062 |
| National Museum of Afro-American History and Culture Planning Committee             | 149.303                                   | 81063 |
| New African Immigrants Commission   | 4112.31, 4112.32                          | 81064 |
| Ohio Accountability Task Force  | 3302.021(E)                               | 81065 |
| Ohio Advisory Council for the Aging   | 173.03                                    | 81066 |
| Ohio Agriculture License Plate Scholarship Fund Board                               | 901.90                                    | 81067 |
| Ohio Arts Council   | Chapter 3379.                             | 81068 |

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|---|--|-------|
| Ohio Business Gateway Steering Committee  | 5703.57                                  | 81069 |
| Ohio Cemetery Dispute Resolution Commission                                       | 4767.05, 4767.06                         | 81070 |
| Ohio Civil Rights Commission Advisory Agencies<br>and Conciliation Councils       | 4112.04(B)(4)                            | 81071 |
| Ohio Commercial Market Assistance Plan Executive<br>Committee                     | 3930.02                                  | 81072 |
| Ohio Commission on Dispute Resolution and<br>Conflict Management                  | 179.02 - 179.04                          | 81073 |
| Ohio Commission on Fatherhood   | 5101.34                                  | 81074 |
| Ohio Community Service Council  | 121.40 - 121.404                         | 81075 |
| Ohio Council for Interstate Adult Offender<br>Supervision                         | 5149.22                                  | 81076 |
| Ohio Cultural Facilities Commission   | Chapter 3383.                            | 81077 |
| Ohio Cystic Fibrosis Legislative Task Force                                       | 101.38                                   | 81078 |
| Ohio Developmental Disabilities Council   | 5123.35                                  | 81079 |
| Ohio Expositions Commission   | 991.02                                   | 81080 |
| Ohio Family and Children First Cabinet Council                                    | 121.37                                   | 81081 |
| Ohio Geographically Referenced Information<br>Program Council                     | 125.901, 125.902                         | 81082 |
| Ohio Geology Advisory Council   | 1501.11                                  | 81083 |
| Ohio Grape Industries Committee   | 924.51 - 924.55                          | 81084 |
| Ohio Historic Site Preservation Advisory Board                                    | 149.301                                  | 81085 |
| Ohio Historical Society Board of Trustees   | 149.30                                   | 81086 |
| Ohio Judicial Conference  | 105.91 - 105.97                          | 81087 |
| Ohio Lake Erie Commission   | 1506.21                                  | 81088 |
| Ohio Legislative Commission on the Education and<br>Preservation of State History | Section 701.05,<br>H.B. 1, 128th<br>G.A. | 81089 |
| Ohio Medical Quality Foundation   | 3701.89                                  | 81090 |
| Ohio Parks and Recreation Council   | 1541.40                                  | 81091 |
| Ohio Peace Officer Training Commission  | 109.71, 109.72                           | 81092 |
| Ohio Private Investigation and Security Services<br>Commission                    | 4749.021,<br>4743.01                     | 81093 |

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|--|---------------------|-------|
| Ohio Public Defender Commission  | 120.01 - 120.03     | 81094 |
| Ohio Public Library Information Network Board of Trustees                        | 3375.65, 3375.66    | 81095 |
| Ohio Quarter Horse Development Commission  | 3769.086            | 81096 |
| Ohio Small Government Capital Improvements Commission                            | 164.02(C)(D)        | 81097 |
| Ohio Soil and Water Conservation Commission                                      | 1515.02             | 81098 |
| Ohio Standardbred Development Commission   | 3769.085            | 81099 |
| Ohio Subrogation Rights Commission   | 2323.44             | 81100 |
| Ohio Thoroughbred Racing Advisory Committee                                      | 3769.084            | 81101 |
| Ohio Transportation Finance Commission   | 5531.12(B) to (D)   | 81102 |
| Ohio Tuition Trust Authority   | 3334.03, 3334.08    | 81103 |
| Ohio University College of Osteopathic Medicine Advisory Committee               | 3337.10, 3337.11    | 81104 |
| Ohio Vendors Representative Committee  | 3304.34, 20 USC 107 | 81105 |
| Ohio War Orphans Scholarship Board   | 5910.02 - 5910.06   | 81106 |
| Ohio Water Advisory Council  | 1521.031            | 81107 |
| Ohio Water Resources Council Advisory Group                                      | 1521.19             | 81108 |
| Ohio Water Resources Council   | 1521.19             | 81109 |
| Oil and Gas Commission   | 1509.35             | 81110 |
| Operating Committee of the Oil and Gas Marketing Program                         | 1510.06, 1510.11    | 81111 |
| Organized Crime Investigations Commission  | 177.01              | 81112 |
| Pharmacy and Therapeutics Committee of the Department of Job and Family Services | 5111.084            | 81113 |
| Physician Assistant Policy Committee of the State Medical Board                  | 4730.05, 4730.06    | 81114 |
| Physician Loan Repayment Advisory Board  | 3702.81             | 81115 |
| Power Siting Board   | 4906.02             | 81116 |
| Prequalification Review Board  | 5525.07             | 81117 |

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|---|---|-------|
| Private Water Systems Advisory Council  | 3701.346                                      | 81118 |
| <del>Public Health Council</del>  | <del>3701.33, 3701.34</del>                   | 81119 |
| Public Utilities Commission Nominating Council  | 4901.021                                      | 81120 |
| Public Utility Property Tax Study Committee   | 5727.85(K)                                    | 81121 |
| Radiation Advisory Council  | 3748.20                                       | 81122 |
| Reclamation Commission  | 1513.05                                       | 81123 |
| Reclamation Forfeiture Fund Advisory Board  | 1513.182                                      | 81124 |
| Recreation and Resources Commission   | 1501.04                                       | 81125 |
| Recycling and Litter Prevention Advisory Council  | 1502.04                                       | 81126 |
| School and Ministerial Lands Divestiture<br>Committee   | 501.041                                       | 81127 |
| Savings and Loan Associations and Savings Banks<br>Board                                      | 1181.16                                       | 81128 |
| Second Chance Trust Fund Advisory Committee   | 2108.35                                       | 81129 |
| Service Coordination Workgroup  | Section 751.20,<br>H.B. 1, 128th<br>G.A.      | 81130 |
| Ski Tramway Board   | 4169.02                                       | 81131 |
| Small Business Stationary Source Technical and<br>Environmental Compliance Assistance Council | 3704.19                                       | 81132 |
| Solid Waste Management Advisory Council   | 3734.51                                       | 81133 |
| Special Commission to Consider the Suspension of<br>Local Government Officials                | 3.16  | 81134 |
| Speed to Scale Task Force   | Section<br>375.60.80, H.B.<br>119, 128th G.A. | 81135 |
| State Agency Coordinating Group   | 1521.19                                       | 81136 |
| State Audit Committee   | 126.46  | 81137 |
| State Council of Uniform State Laws   | 105.21 - 105.27                               | 81138 |
| State Criminal Sentencing Commission  | 181.22 - 181.26                               | 81139 |
| State Fire Council  | 3737.81                                       | 81140 |
| State Library Board   | 3375.01                                       | 81141 |
| State Victims Assistance Advisory Council   | 109.91(B) and                                 | 81142 |

|   |                      |                |
|---|----------------------|----------------|
|   | (C)                  |                |
| Statewide Consortium of County Law Library  | 3375.481             | 81143          |
| Resource Boards   |                      |                |
| STEM Committee  | 3326.02              | 81144          |
| Student Tuition Recovery Authority  | 3332.081             | 81145          |
| Sunset Review Committee   | 101.84 - 101.87      | 81146          |
| Tax Credit Authority  | 122.17(M)            | 81147          |
| Technical Advisory Committee to Assist Director<br>of the Ohio Coal Development Office                                      | 1551.35              | 81148          |
| Technical Advisory Council on Oil and Gas   | 1509.38              | 81149          |
| Transportation Review Advisory Council  | 5512.07 -<br>5512.09 | 81150          |
| Unemployment Compensation Advisory Council  | 4141.08              | 81151          |
| Unemployment Compensation Review Commission   | 4141.06              | 81152          |
| Veterans Advisory Committee   | 5902.02(K)           | 81153          |
| Volunteer Fire Fighters' Dependents Fund Boards<br>(private volunteer)  | 146.02 - 146.06      | 81154          |
| Volunteer Fire Fighters' Dependents Fund Boards<br>(public)   | 146.02 - 146.06      | 81155          |
| Water and Sewer Commission  | 1525.11(C)           | 81156          |
| Waterways Safety Council  | 1547.73              | 81157          |
| Wildlife Council  | 1531.03 -<br>1531.05 | 81158          |
| Workers' Compensation Board of Directors  | 4121.123             | 81159          |
| Nominating Committee  |                      |                |
| <b>Section 601.51.</b> That existing Section 4 of Sub. S.B. 171 of<br>the 129th General Assembly is hereby repealed.        |                      | 81160<br>81161 |
| <b>Section 601.55.</b> That Section 701.10 of Sub. S.B. 312 of the<br>129th General Assembly be amended to read as follows: |                      | 81162<br>81163 |
| <b>Sec. 701.10.</b> Notwithstanding any contrary provision in   |                      | 81164          |

section 105.41 of the Revised Code or in any rule or procedure 81165  
adopted by the Capitol Square Review and Advisory Board, the Board 81166  
shall designate, not later than October 1, 2012, a prominent place 81167  
on the lawn or other outside grounds of Capitol Square for the 81168  
erection of a permanent memorial to victims of The Holocaust 81169  
(1933-1945) and to those Ohioans who participated in the 81170  
liberation of the death camps during World War II. The Ohio Arts 81171  
Council and the Board shall work together to invite, accept, and 81172  
evaluate proposals for the concept, design, and erection of such a 81173  
memorial, and shall jointly select from among the proposals the 81174  
memorial to be designed and erected at the place designated by the 81175  
Capitol Square Review and Advisory Board for that purpose. Site 81176  
preparation, utility placement, and other ~~preliminary~~ construction 81177  
activities ~~shall be paid for with public funds. Planning, and~~ 81178  
~~planning~~ for and designing and erecting the memorial, shall be 81179  
paid for with only private contributions. The Capitol Square 81180  
Foundation shall accept private contributions for those purposes, 81181  
and shall deposit the contributions into the Capitol Square 81182  
Holocaust Memorial Fund. 81183

**Section 601.56.** That existing Section 701.10 of Sub. S.B. 312 81184  
of the 129th General Assembly is hereby repealed. 81185

**Section 610.10.** That Section 3 of Am. Sub. S.B. 160 of the 81186  
121st General Assembly be amended to read as follows: 81187

**Sec. 3.** Sections 109.57, 109.572, 2950.08, and 2953.32,~~and~~ 81188  
~~3701.881~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 81189  
160 of the 121st General Assembly regarding employment of persons 81190  
who provide direct care to older adults, and sections ~~173.41,~~ 81191  
3712.09, 3721.121, and 3722.151 of the Revised Code, as enacted by 81192  
~~this act~~ Am. Sub. S.B. 160 of the 121st General Assembly, apply 81193  
only to persons who apply for employment on or after ~~the effective~~ 81194

~~date of this act~~ January 27, 1997. 81195

**Section 610.11.** That existing Section 3 of Am. Sub. S.B. 160 81196  
of the 121st General Assembly is hereby repealed. 81197

**Section 620.10.** That Section 3 of Am. Sub. S.B. 38 of the 81198  
120th General Assembly be amended to read as follows: 81199

**Sec. 3.** Sections 3301.54, and 5104.09, ~~and 5126.28~~ of the 81200  
Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 38 of the 120th 81201  
General Assembly, and sections 109.572, 2151.86, 3301.32, 81202  
3301.541, ~~3319.311~~ 3319.39, ~~3701.881~~, 5104.012, 5104.013, and 81203  
5153.111 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 81204  
38 of the 120th General Assembly, apply only to persons who apply 81205  
for employment for a position on or after ~~the effective date of~~ 81206  
~~this act~~ October 29, 1993. 81207

**Section 620.11.** That existing Section 3 of Am. Sub. S.B. 38 81208  
of the 120th General Assembly is hereby repealed. 81209

**Section 650.10.** That Sections 261.10.10, 261.10.20, 81210  
261.10.30, 261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.10, 81211  
261.20.20, 261.20.70, 261.30.50, and 263.10.80 of Am. Sub. H.B. 81212  
153 of the 129th General Assembly are hereby repealed. 81213

**Section 701.10.10.** OHIO STATEHOUSE SAFETY AND SECURITY STUDY 81214

The Capitol Square Review and Advisory Board and the 81215  
Department of Public Safety jointly shall contract for a study of 81216  
the safety and security of the Ohio Statehouse complex, including 81217  
the buildings, parking garage, and grounds. The Board and the 81218  
Department jointly shall determine with whom to contract. The 81219  
study shall include recommendations for security protocols while 81220  
providing for the health, safety, and convenience of those who 81221

work in, or visit, the statehouse. The report shall be submitted 81222  
to the Capitol Square Review and Advisory Board for action not 81223  
later than December 1, 2012. 81224

**Section 701.23.** As used in this section, "political 81225  
subdivision" has the meaning defined in section 2744.01 of the 81226  
Revised Code. 81227

The Auditor of State shall establish, operate, and maintain 81228  
one or more web sites to serve as an online clearinghouse of 81229  
information about streamlining government operations, 81230  
collaboration, and shared services to reduce the cost of 81231  
government in this state. The web site may be developed by the 81232  
Auditor of State or through the use of outside vendors. Existing 81233  
web sites may be used if their content conforms to the 81234  
requirements of this section. In establishing, maintaining, and 81235  
operating the online clearinghouse web site, the Auditor of State 81236  
shall: 81237

(A) Use a domain name for the web site that will be easily 81238  
recognized, remembered, and understood by the users of the web 81239  
site; 81240

(B) Maintain the web site so that it is fully accessible to 81241  
and searchable by members of the public at all times; 81242

(C) Not charge a fee to a person who accesses, searches, or 81243  
otherwise uses the web site; 81244

(D) Compile information provided by political subdivisions 81245  
that includes savings recommendations from performance audits, 81246  
examples of shared services among communities, shared services 81247  
agreements to use as templates, and other tools developed 81248  
independently by the Auditor of State or requested by political 81249  
subdivisions and agreed to by the Auditor of State; 81250

(E) Enable political subdivisions to register and request 81251

inclusion of their submitted information on the web site, as well 81252  
as to report state and local barriers to collaboration; 81253

(F) Enable information to be accessed by key word or other 81254  
useful identifiers; 81255

(G) Maintain adequate systemic security and back-up features, 81256  
and develop and maintain a contingency plan for coping with and 81257  
recovering from power outages, systemic failures, and other 81258  
unforeseen difficulties; and 81259

(H) Maintain the web site in such a manner that it will not 81260  
infringe legally protected interests, so that vulnerability of the 81261  
web site to interruption because of litigation or the threat of 81262  
litigation is reduced. 81263

**Section 701.33.** As used in this section, "political 81264  
subdivision" has the meaning defined in section 2744.01 of the 81265  
Revised Code. 81266

The Department of Administrative Services, by itself or by 81267  
contract with another entity, shall establish, operate, and 81268  
maintain a web site to serve as an online clearinghouse of 81269  
information about existing joint purchasing programs between or 81270  
among political subdivisions in the state. In establishing, 81271  
maintaining, and operating the online clearinghouse web site, the 81272  
department shall: 81273

(A) Use a domain name for the web site that will be easily 81274  
recognized, remembered, and understood by the users of the web 81275  
site; 81276

(B) Maintain the web site so that it is fully accessible to 81277  
and searchable by members of the public at all times; 81278

(C) Not charge a fee to a person who accesses, searches, or 81279  
otherwise uses the web site; 81280

(D) Compile information provided by political subdivisions 81281

about joint purchasing arrangements they are involved in that the department verifies, through meetings with various statewide associations and others, to have resulted in verifiable cost savings, and consolidate that information on the web site in a consistent manner;

(E) Enable political subdivisions to register and request inclusion of their submitted information on the web site;

(F) Enable information to be accessed by key word, by program name, by county, by type of product or service, and by other useful identifiers;

(G) Maintain adequate systemic security and back-up features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseen difficulties; and

(H) Maintain the web site in such a manner that it will not infringe legally protected interests, so that vulnerability of the web site to interruption because of litigation or the threat of litigation is reduced.

The department shall bear the expense of establishing, operating, and maintaining the online clearinghouse web site.

**Section 701.41.** The Department of Administrative Services shall analyze opportunities to reduce travel expenses through teleconferencing and web conferencing within state government. The Department shall assess current teleconferencing capabilities within state government operations, research industry standards and best practices, and make recommendations that will optimize the use of these technologies. Not later than December 31, 2012, the Department of Administrative Services shall produce a report with its findings and shall deliver the report to the Speaker and Minority Leader of the House of Representatives, the President and

Minority Leader of the Senate, and the Governor. 81312

**Section 701.50.** MARCS STEERING COMMITTEE AND STATEWIDE 81313  
COMMUNICATIONS SYSTEM 81314

There is hereby created a Multi-Agency Radio Communications 81315  
System (MARCS) Steering Committee consisting of the designees of 81316  
the Directors of Administrative Services, Public Safety, Natural 81317  
Resources, Transportation, Rehabilitation and Correction, and 81318  
Budget and Management, and the State Fire Marshal or the State 81319  
Fire Marshal's designee. The Director of Administrative Services 81320  
or the Director's designee shall chair the Committee. The 81321  
Committee shall provide assistance to the Director of 81322  
Administrative Services for effective and efficient implementation 81323  
of the MARCS system as well as develop policies for the ongoing 81324  
management of the system. Upon dates prescribed by the Directors 81325  
of Administrative Services and Budget and Management, the MARCS 81326  
Steering Committee shall report to the Directors on the progress 81327  
of MARCS implementation and the development of policies related to 81328  
the system. 81329

**Section 701.60.** As used in this section, "business day" means 81330  
a day of the week, excluding Saturday, Sunday, or a legal holiday 81331  
as defined in section 1.14 of the Revised Code. 81332

Any regional council of governments that was formed and is 81333  
operating before the effective date of the amendment by this act 81334  
of section 167.04 of the Revised Code shall notify the Auditor of 81335  
State of its existence within 30 business days after the effective 81336  
date of that amendment, and shall provide on a form prescribed by 81337  
the Auditor of State the information required under that section. 81338  
The Auditor of State shall review the information and, within one 81339  
year after the effective date of that amendment, shall issue a 81340  
report to the Governor and the General Assembly. The report shall 81341

address how many regional councils of governments are operating 81342  
under Chapter 167. of the Revised Code, whether those regional 81343  
councils continue to meet the objectives for which regional 81344  
councils were first authorized in 1967, and whether regional 81345  
councils are an efficient and effective way for local governments 81346  
to share services or to participate in cooperative arrangements. 81347

**Section 701.70.10.** (A) The construction and energy operations 81348  
of the Office of the State Architect and Engineer (OSAE) under 81349  
Chapters 123. and 153. are transferred and consolidated into the 81350  
construction and capital funding operations of the Ohio Facilities 81351  
Construction Commission (OFCC). And the Ohio School Facilities 81352  
Commission (OSFC) becomes an independent agency within the Ohio 81353  
Facilities Construction Commission. Notwithstanding Chapter 153. 81354  
of the Revised Code, the OFCC is thereupon and thereafter 81355  
successor to, assumes the power and obligations of, and otherwise 81356  
constitutes the continuation of the construction and energy 81357  
operations and related management functions of the OSAE as 81358  
provided in the applicable sections of Chapter 153. of the Revised 81359  
Code or in any agreements relating to capital expenditures for 81360  
construction operations functions to which the OSAE is a party. 81361  
All statutory references to the OSAE are deemed to be references 81362  
to the OFCC. 81363

(B) Any activities relating to the operations and related 81364  
management functions commenced but not completed by the OSAE shall 81365  
be completed by the OFCC in the same manner and with the same 81366  
effect as if completed by the OSAE. No validation, cure, right, 81367  
privilege, remedy, obligation, or liability is lost or impaired by 81368  
reason of the consolidation, and shall be administered by the 81369  
OFCC. All rules, orders, and determinations related to design, 81370  
planning, and construction and energy operations and related 81371  
management functions of the OSAE continue in effect as rules, 81372  
orders, and determinations of the OFCC, until modified or 81373

rescinded by the OFCC. The Director of the Legislative Service Commission shall renumber the OSAE rules related to the design, planning, and construction and energy operations and related management functions to reflect their transfer to the OFCC.

(C) To the extent possible, all employees of the OSAE shall be transferred to the OFCC, as the OFCC determines to be necessary for the successful implementation of this section. All employees of the OSFC shall remain in their current classifications unless the OFCC determines otherwise.

(D) No judicial or administrative action or proceeding, to which the OSAE or an authorized officer of either is a party, that is pending on the effective date of this section, or on such later date as may be established by an authorized officer of the OFCC and that is related to its construction, capital funding, or energy operation or related management functions, is affected by the transfer and consolidation of functions. Any such action or proceeding shall be prosecuted or defended in the name of the OFCC. On application to the court or agency, the OFCC shall be substituted for the OSAE or an authorized officer of either as a party to the action or proceeding.

(E) Notwithstanding any provision of the law to the contrary, and not sooner than 90 days after the effective date of this section, and if requested by the OFCC, the Director of Budget and Management shall make budget changes made necessary by the transfer, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, and the consolidation of funds, as authorized by this section. The Director of Budget and Management may, if necessary, establish encumbrances or parts of encumbrances created in fiscal years 2012 and 2013 in the appropriate fund and appropriation item for the same purpose and for payment to the same vendor in fiscal year 2013. The established encumbrances plus any additional amounts

determined to be necessary for the OFCC to perform the 81406  
construction, energy, and capital funding operation and related 81407  
management functions of the OSAE are hereby appropriated. 81408

(F) Not later than 30 days after the transfer and 81409  
consolidation of the construction, energy, and capital funding 81410  
operations and related management functions of the OSAE to the 81411  
OFCC, an authorized officer of the OSAE shall certify to the OFCC 81412  
the unexpended balance and location of any funds and accounts 81413  
designated for building and facility operation and management 81414  
functions, and the custody of such funds and accounts shall be 81415  
transferred to the OFCC. 81416

(G) The OFCC and the Department of Natural Resources (DNR) 81417  
shall cooperate in a study to determine which operation functions, 81418  
if any, of the DNR Division of Engineering should be integrated 81419  
and consolidated into the OFCC. The study shall be completed not 81420  
later than December 31, 2012. 81421

**Section 701.70.20.** The Division of Labor in the Department of 81422  
Commerce is hereby renamed the Division of Industrial Compliance 81423  
on the effective date of section 121.04 of the Revised Code, as 81424  
amended by this act. The Division and the Superintendent of 81425  
Industrial Compliance shall have and perform all the duties, 81426  
powers, and obligations of the Division and Superintendent of 81427  
Labor. All rules, actions, determinations, commitments, 81428  
resolutions, decisions, and agreements pertaining to the duties, 81429  
powers, obligations, functions, and rights of the Division or 81430  
Superintendent of Labor, in force or in effect on the effective 81431  
date of section 121.04 of the Revised Code, as amended by this 81432  
act, shall continue in force and effect and apply to the Division 81433  
or Superintendent of Industrial Compliance as applicable and 81434  
subject to any further lawful action thereon by the Division or 81435  
Superintendent of Industrial Compliance. Wherever the 81436

Superintendent of Labor or Division of Labor are referred to in 81437  
any provision of law, or in any agreement or document that 81438  
pertains to those duties, powers, obligations, functions, and 81439  
rights, the reference is to the Superintendent of Industrial 81440  
Compliance or Division of Industrial Compliance, as appropriate. 81441

All authorized obligations and supplements thereto of the 81442  
Superintendent and Division of Labor are binding on the 81443  
Superintendent or Division of Industrial Compliance and nothing in 81444  
this act impairs those obligations or rights or the obligations or 81445  
rights under any contract. The renaming of the Division of Labor 81446  
and Superintendent of Labor does not affect the validity of 81447  
agreements or obligations made by that superintendent or division 81448  
pursuant to Chapters 121., 3703., 3781., 3791., 4104., 4105., and 81449  
4740. of the Revised Code or any other provisions of law. 81450

In connection with the renaming of the Division of Labor, all 81451  
real property and interest therein, documents, books, money, 81452  
papers, records, machinery, furnishings, office equipment, 81453  
furniture, and all other property over which the Superintendent 81454  
and Division of Labor have control and the rights of the 81455  
Superintendent and Division of Labor to enforce or receive any of 81456  
those is automatically transferred to the Superintendent and 81457  
Division of Industrial Compliance without necessity for further 81458  
action on the part of the Superintendent or Division of Industrial 81459  
Compliance, or the Director of Commerce. Additionally, all 81460  
appropriations or reappropriations made to the Superintendent and 81461  
Division of Labor for the purposes of the performance of their 81462  
duties, powers, and obligations, are transferred to the 81463  
Superintendent and Division of Industrial Compliance to the extent 81464  
of the remaining unexpended or unencumbered balance thereof, 81465  
whether allocated or unallocated, and whether obligated or 81466  
unobligated. 81467

**Section 701.111.** The new filing requirements applicable to 81468  
persons who are elected or appointed to, or who are candidates 81469  
for, an office of a township with a population of five thousand or 81470  
more under section 102.02 of the Revised Code, as amended by this 81471  
act, first apply to 2011 statements required to be filed by 81472  
persons who are candidates for or serving in a township office in 81473  
calendar year 2012, which shall be filed not later than ninety 81474  
days after the effective date of this section. 81475

**Section 701.121.** (A) The state of Ohio requests that the 81476  
Joint Committee on the Library of Congress approve the replacement 81477  
of Ohio's statue of Governor William Allen in the National 81478  
Statuary Hall Collection with a statue of Thomas Edison. 81479

(B) In accordance with the Procedure for Replacement of 81480  
Statues in the National Statuary Hall Collection, Ohio submits the 81481  
following information for consideration by the Joint Committee on 81482  
the Library of Congress: 81483

(1) Thomas Edison, a native of Milan, Ohio, was a world 81484  
famous inventor and highly successful businessperson whose 81485  
inventions, such as the phonograph, the kinetoscope (a precursor 81486  
to the film projector), and the first practical incandescent light 81487  
bulb, have had a tremendous impact on the world. In addition to 81488  
these inventions, Thomas Edison's service to the United States 81489  
Government has also impacted world history. During World War I, he 81490  
consulted for the government, examining inventions submitted for 81491  
military use and working on defensive devices for submarines and 81492  
ships. For his service, he eventually was awarded a Distinguished 81493  
Service Medal by the Department of the Navy. By the time of his 81494  
death, he had received over one thousand patents. 81495

Thomas Edison also has had a significant impact on the state 81496  
of Ohio. He established the Edison Steel Company in Cleveland, 81497

Ohio, and established one of the first electric power stations in 81498  
Tiffin, Ohio. His General Electric Company established the first 81499  
industrial park in Ohio, which has employed hundreds of thousands 81500  
of people over time. And the Ohio Department of Development 81501  
sponsors The Thomas Edison Award, which was established in 81502  
partnership with the Edison Birthplace Museum in Milan, Ohio. The 81503  
Edison Birthplace Museum also has been instrumental in the 81504  
issuance of a Thomas Edison stamp and commemorative silver dollar, 81505  
and has received, on Thomas Edison's behalf, a posthumously 81506  
awarded GRAMMY Award. 81507

Thomas Edison's impact on the world, and, in particular, on 81508  
the state of Ohio, through his inventions, business endeavors, and 81509  
government service, merits inclusion of a statue of him in the 81510  
National Statuary Hall Collection. 81511

(2) The Ohio Statuary Hall Commission, a nonprofit Ohio 81512  
corporation, was established in 2009 for the purpose of assisting 81513  
with the process of recommending an Ohio citizen for statuary 81514  
representation in the National Statuary Hall Collection, including 81515  
raising funds and providing financial support for that effort. If 81516  
the Joint Committee on the Library of Congress approves this 81517  
replacement statue request, the Commission shall be responsible 81518  
for the selection of a sculptor for the Thomas Edison statue as 81519  
well as for paying all costs incurred for placing the Thomas 81520  
Edison statue in the United States Capitol, including costs 81521  
incurred for all of the following: 81522

(a) Paying the sculptor; 81523

(b) Carving or casting the statue; 81524

(c) Creating a pedestal and any inscription; 81525

(d) Transporting the statue and pedestal to the United States 81526  
Capitol; 81527

(e) Removing and transporting the replaced statue; 81528

(f) Temporarily erecting the new statue in the Rotunda of the Capitol for the unveiling ceremony; 81529  
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(g) Expenses related to the unveiling ceremony; and 81531

(h) Any other expenses that the Ohio Statuary Hall Commission finds it to be necessary to incur. 81532  
81533

(C) As required by the Procedure for Replacement of Statues in the National Statuary Hall Collection, the Governor shall submit to the Architect of the Capitol a copy of this act, along with a letter from the Governor, requesting approval from the Joint Committee on the Library of Congress to replace Ohio's statue of Governor William Allen in the National Statuary Hall Collection with a statue of Thomas Edison. 81534  
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**Section 701.131.** The amendment by this act to sections 107.54 and 119.032 and the enactment by this act of section 119.033 of the Revised Code apply to a rule that is subjected to review under section 119.032 of the Revised Code on or after January 1, 2013. The amendment by this act to sections 107.54 and 119.032 and the enactment by this act of section 119.033 of the Revised Code do not apply to a rule the review of which under section 119.032 of the Revised Code is pending on January 1, 2013. Prior law continues to apply to these proposed rules and to these rules until the rule-making or the review proceedings are completed. 81541  
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**Section 707.10.** For fiscal years 2013 and 2014, the legislative authority of a municipal corporation in a county, with a population between three hundred seventy-five thousand and four hundred thousand according to the most recent federal decennial census, may conduct a pilot program whereby the legislative authority may use up to five per cent of the aggregate amount of money deposited in the municipal corporation's sewer fund and up 81552  
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to five per cent of the aggregate amount of money deposited in a 81559  
fund created by the municipal corporation for water-works for the 81560  
purpose of extending the municipal corporation's water or sewerage 81561  
system, as applicable, if both of the following apply: 81562

(A) The water or sewerage system is being extended to areas 81563  
for economic development purposes. 81564

(B) The areas into which the water or sewerage system is 81565  
being extended are the subject of a cooperative economic 81566  
development agreement entered into by the municipal corporation 81567  
under section 701.07 of the Revised Code. 81568

With regard to either fund, the legislative authority shall 81569  
not exceed the five per cent limit established in this section. 81570

**Section 709.11.** Upon the expiration of the term of a member 81571  
who is serving on the Ohio Grape Industries Committee created in 81572  
section 924.51 of the Revised Code immediately prior to the 81573  
effective date of this act, the Director of Agriculture shall 81574  
appoint a member for a new term in accordance with that section as 81575  
amended by this act. 81576

**Section 733.05.** Not later than ninety days after the 81577  
effective date of this section, the Ohio Board of Regents shall 81578  
complete a review of each entity that held the Department of 81579  
Insurance's designation under section 3305.03 of the Revised Code 81580  
immediately prior to the effective date of this act. In conducting 81581  
the review, the Board shall comply with the applicable 81582  
requirements of sections 3305.03 and 3305.031 of the Revised Code, 81583  
as amended and enacted by this act. 81584

**Section 733.10.** (A) This section applies to a state 81585  
university, as defined in section 3345.011 of the Revised Code, 81586  
that has a main campus subsidy-eligible undergraduate enrollment 81587

of more than 17,000 but less than 22,000 students for fiscal year 2012. 81588  
81589

(B) Notwithstanding section 3313.41 of the Revised Code, when 81590  
a school district board of education decides to dispose of real 81591  
property that the board owns in its corporate capacity, exceeds in 81592  
value ten thousand dollars, and is located within one hundred 81593  
yards of any classroom or administrative building on the main 81594  
campus of the state university as described in division (A) of 81595  
this section, prior to offering that property for sale under 81596  
divisions (A) to (G) of section 3313.41 of the Revised Code, the 81597  
board may offer that property to the board of trustees of the 81598  
state university in either or both of the following manners: 81599

(1) In an "as is" condition in return for an agreement 81600  
between the board of trustees and the school district board, under 81601  
which the university will provide the school district with in-kind 81602  
services, educational programs, or other assistance valued in the 81603  
aggregate in an amount reasonably related to the appraised fair 81604  
market value of the property; 81605

(2) For sale for money at a price that is not higher than the 81606  
appraised fair market value of that property. 81607

(C) If the board of trustees does not accept either offer, or 81608  
if the agreement is not entered into between the school district 81609  
board and the board of trustees, within sixty days after the offer 81610  
is made by the district board, the district board then shall offer 81611  
the property for sale as provided in division (G) of section 81612  
3313.41 of the Revised Code. 81613

(D) This section expires on December 31, 2012. 81614

**Section 737.10. ABOLISHMENT OF THE PUBLIC HEALTH COUNCIL** 81615

On the effective date of this section, the Public Health 81616  
Council is abolished and the responsibilities of the Public Health 81617

Council are transferred to the Director of Health. 81618

Any business before the Public Health Council commenced but 81619  
not completed before the effective date of this section shall be 81620  
completed by the Director of Health. The business shall be 81621  
completed in the same manner, and with the same effect, as if 81622  
completed by the Director of Health immediately prior to the 81623  
effective date of this section. 81624

No validation, cure, right, privilege, remedy, obligation, or 81625  
liability is lost or impaired by reason of this act's abolishment 81626  
of the Public Health Council and transfer of responsibility to the 81627  
Director of Health. Each such validation, cure, right, privilege, 81628  
remedy, obligation, or liability shall be administered by the 81629  
Director of Health. 81630

All rules, orders, and determinations of the Public Health 81631  
Council adopted or made immediately prior to the effective date of 81632  
this section shall continue in effect as rules, orders, and 81633  
determinations of the Director of Health until modified or 81634  
rescinded by the Director of Health. If necessary to ensure the 81635  
integrity of the numbering system of the Administrative Code, the 81636  
Director of the Legislative Service Commission shall renumber the 81637  
rules to reflect the transfer of the Public Health Council's 81638  
responsibilities to the Director of Health. 81639

Any action or proceeding that is related to the functions or 81640  
duties of the Public Health Council pending on the effective date 81641  
of this section is not affected by the transfer and shall be 81642  
prosecuted or defended in the name of the Director of Health. In 81643  
all such actions and proceedings, the Director of Health, on 81644  
application to the court, shall be substituted as a party. 81645

**Section 737.20.** (A) On the effective date of the amendment of 81646  
the statutes governing the Division of Recycling and Litter 81647  
Prevention in the Department of Natural Resources by this act or 81648

on July 1, 2012, whichever is later, the Division of Recycling and Litter Prevention is abolished, and all of its functions, together with its assets and liabilities, are transferred from within the Department of Natural Resources to within the Environmental Protection Agency.

(B) Any business commenced but not completed by the Division of Recycling and Litter Prevention in the Department of Natural Resources on the effective date of the transfer shall be completed by the Environmental Protection Agency. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired solely by reason of the transfer required by this section and shall be administered by the Environmental Protection Agency in accordance with this act.

(C) All of the rules, orders, and determinations of the Division of Recycling and Litter Prevention in the Department of Natural Resources or of the Department of Natural Resources in relation to that Division continue in effect as rules, orders, and determinations of the Environmental Protection Agency until modified or rescinded by the Environmental Protection Agency. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber rules of the Department of Natural Resources in relation to the former Division of Recycling and Litter Prevention in that Department to reflect the transfer to the Environmental Protection Agency.

(D) Subject to the provisions of the applicable bargaining unit agreements, all of the positions of the Division of Recycling and Litter Prevention in the Department of Natural Resources are transferred to the Environmental Protection Agency. Employees who transfer with the positions shall retain their same or substantially similar positions and all the benefits accruing

thereto. Upon completion of the transfer, the employees shall be 81680  
subject to the policies and procedures of the Environmental 81681  
Protection Agency. 81682

(E) Whenever the Division of Recycling and Litter Prevention 81683  
in the Department of Natural Resources or the Chief of the 81684  
Division of Recycling and Litter Prevention is referred to in any 81685  
law, contract, or other document, the reference shall be deemed to 81686  
refer to the Environmental Protection Agency or to the Director of 81687  
Environmental Protection, whichever is appropriate in context. 81688

(F) Any action or proceeding pending on the effective date of 81689  
the amendment of the statutes governing the Division of Recycling 81690  
and Litter Prevention by this act is not affected by the transfer 81691  
of the functions of that Division by this act and shall be 81692  
prosecuted or defended in the name of the Environmental Protection 81693  
Agency. In all such actions and proceedings, the Environmental 81694  
Protection Agency, upon application to the court, shall be 81695  
substituted as a party. 81696

**Section 737.30.** The Recycling and Litter Prevention Advisory 81697  
Council created within the Environmental Protection Agency by 81698  
section 3736.04 of the Revised Code, as amended and renumbered by 81699  
this act, is a continuation of the Recycling and Litter Prevention 81700  
Advisory Council created within the Division of Recycling and 81701  
Litter Prevention in the Department of Natural Resources by 81702  
section 1502.04 of the Revised Code prior to its amendment and 81703  
renumbering by this act. 81704

**Section 737.40.** (A) As used in this section: 81705

(1) "Food service operation," "retail food establishment," 81706  
and "vending machine location" have the same meanings as in 81707  
section 3717.01 of the Revised Code. 81708

(2) "Micro market" means an area or room that has displays of 81709

not more than two hundred fifty linear feet that offer either of 81710  
the following: 81711

(a) Prepackaged foods that are not time- or 81712  
temperature-controlled for food safety purposes; 81713

(b) Prepackaged foods that are refrigerated or frozen and 81714  
time- or temperature-controlled for food safety purposes and that 81715  
are stored in equipment that complies with Chapter 3717-1 of the 81716  
Administrative Code. 81717

(B) Until the Director of Agriculture adopts rules under 81718  
section 3717.04 of the Revised Code governing the licensure of 81719  
micro markets, the operation of a micro market is exempt from the 81720  
licensure requirements for retail food establishments, food 81721  
service operations, and vending machine locations established 81722  
under Chapter 3717. of the Revised Code. This division applies to 81723  
a micro market that was previously exempted under division (B)(5) 81724  
of section 3717.22 of the Revised Code by the Director from being 81725  
licensed as a retail food establishment. 81726

(C) Not later than sixty days following the adoption of rules 81727  
by the Director under section 3717.04 of the Revised Code 81728  
governing the licensure of micro markets, the operator of a micro 81729  
market shall apply for a license in accordance with those rules. 81730

**Section 737.50.** Not later than 30 days after the amendment by 81731  
this act of section 3791.11 of the Revised Code takes effect, the 81732  
Treasurer of State shall give written notice to each property 81733  
owner or lessee who, under former division (D) of that section, 81734  
deposited money or a surety or government-issued bond with the 81735  
Treasurer of State that the money will be refunded or the bond 81736  
will be released within the following time period, and that the 81737  
property owner or lessee must file a bond in the manner required 81738  
by division (C) of section 3791.11 of the Revised Code immediately 81739  
after the refund or release: 81740

(A) If money was deposited, the Treasurer of State will 81741  
refund the money to the property owner or lessee within 180 days 81742  
after the effective date of section 3791.11 of the Revised Code, 81743  
as amended by this act; 81744

(B) If a surety bond was deposited, the Treasurer of State 81745  
will release the bond to the property owner or lessee upon the 81746  
earlier of the expiration of the bond or within two years after 81747  
the effective date of section 3791.11 of the Revised Code, as 81748  
amended by this act; 81749

(C) If a government-issued bond was deposited, the Treasurer 81750  
of State will release the bond to the property owner or lessee 81751  
within 180 days after the effective date of section 3791.11 of the 81752  
Revised Code, as amended by this act. 81753

**Section 737.60. LUPUS EDUCATION AND AWARENESS PROGRAM** 81754

(A) In establishing the Lupus Education and Awareness Program 81755  
under sections 3701.77 to 3701.775 of the Revised Code, as enacted 81756  
by this act, the General Assembly hereby finds the following: 81757

(1) Lupus is a serious, complex, and debilitating autoimmune 81758  
disease that can cause inflammation and tissue damage to virtually 81759  
any organ system in the body, including the skin, joints, other 81760  
connective tissue, blood and blood vessels, heart, lungs, kidneys, 81761  
and brain. 81762

(2) The Lupus Foundation of America, Inc., estimates that 81763  
approximately 1.5 to 2 million Americans live with lupus. 81764

(3) According to the Centers for Disease Control and 81765  
Prevention, the rate of lupus mortality has increased since the 81766  
late 1970s. 81767

(4) The pain and fatigue associated with lupus can threaten 81768  
the ability to live independently, maintain employment, and lead a 81769  
normal life. One in five individuals with lupus is disabled by the 81770

disease, and consequently receives support from government 81771  
programs, including Medicare, Medicaid, Social Security 81772  
Disability, and Social Security Supplemental Income. 81773

(5) The estimated average annual cost of medical treatment 81774  
for an individual with lupus is between \$10,000 and \$30,000; for 81775  
individuals who have the most serious form of lupus, medical costs 81776  
can greatly exceed this amount, causing a significant economic, 81777  
emotional, and social burden to the entire family and society. 81778

(6) More than half of individuals with lupus suffer four or 81779  
more years and visit three or more physicians before obtaining a 81780  
diagnosis of lupus; early diagnosis of and treatment for lupus can 81781  
prevent or reduce serious organ damage, disability, and death. 81782

(7) Despite the magnitude of lupus and its impact on 81783  
individuals and families, health professional and public 81784  
understanding of lupus remains low; only one in five Americans can 81785  
provide basic information about lupus, and awareness of lupus is 81786  
lowest among adults 18 to 34 years of age - the age group most 81787  
likely to develop lupus. 81788

(8) Lupus is a significant national health issue that 81789  
deserves a comprehensive and coordinated response by state and 81790  
federal governments with involvement of the health care provider, 81791  
patient, and public health communities. 81792

(B) The purpose of sections 3701.77 to 3701.775 of the 81793  
Revised Code, as enacted by this act, is to create a 81794  
multi-pronged, statewide program to promote public and health 81795  
professional awareness and increase knowledge concerning the 81796  
causes and consequences of lupus, the importance of early 81797  
diagnosis and appropriate management, and effective treatment and 81798  
management strategies by all of the following: 81799

(1) Conducting educational and training programs for health 81800  
professionals on lupus diagnosis and management; 81801

(2) Developing and disseminating educational materials and information to patients and health professionals on lupus research results and health care services available;

(3) Designing and implementing a statewide public education campaign aimed at heightening public awareness of lupus;

(4) Leveraging educational and training resources and services previously developed by organizations with appropriate expertise and knowledge of lupus.

**Section 737.70. PILOT PROGRAM FOR OPIOID- AND ALCOHOL-DEPENDENT OFFENDERS**

(A) The Department of Alcohol and Drug Addiction Services shall conduct a pilot program to provide to certain opioid-dependent, alcohol-dependent, or opioid- and alcohol-dependent offenders within the criminal justice system treatment to prevent relapse into dependency, including medication-assisted treatment. The medication-assisted treatment shall be provided by using one or more drugs that constitute long-acting antagonist therapy and meet all of the following conditions:

(1) There is no potential for abuse of the drugs by the person to whom they are given or through diversion of the drugs to others.

(2) There is no potential for a person to become addicted to or otherwise dependent on the drugs.

(3) The drugs have been approved by the United States Food and Drug Administration to prevent relapse into opioid dependency, alcohol dependency, or opioid and alcohol dependency.

(B) The Department shall conduct the program in Franklin County and Scioto County and may conduct the program in any one or more other counties the Department selects. In conducting the

program, the Department shall collaborate with the boards of 81832  
alcohol, drug addiction, and mental health services that serve the 81833  
counties included in the program. The Department also shall 81834  
collaborate with the Departments of Mental Health, Job and Family 81835  
Services, and Health and with any other state agency that the 81836  
Department determines may be of assistance in accomplishing the 81837  
objectives of the program. 81838

(C) The program shall serve not more than one hundred fifty 81839  
opioid-dependent or alcohol-dependent offenders selected by the 81840  
Department, each of whom meets all of the following criteria: 81841

(1) Is either being released from a community-based 81842  
correctional facility or being diverted from prosecution under 81843  
section 2935.36 of the Revised Code by a county drug court or 81844  
municipal court; 81845

(2) Is transitioning to community-based programs as 81846  
prescribed by the court; 81847

(3) Was opioid dependent, alcohol dependent, or opioid and 81848  
alcohol dependent at the time of committing the offense for which 81849  
the offender was most recently sentenced; 81850

(4) Resides in this state and in the offender's own 81851  
court-approved residence or court-approved transitional housing. 81852

(D) A program participant shall do both of the following: 81853

(1) Commit to participate in the program for twelve months 81854  
and comply with all requirements established by the program, 81855  
sentencing court, and treatment providers, including testing, 81856  
counseling, medication therapies, and reporting requirements; 81857

(2) Attend any on-site programming specified by the 81858  
sentencing court or treatment provider. 81859

(E) Treatment under the program shall be provided by an 81860  
alcohol and drug addiction program certified by the Department 81861

under section 3793.06 of the Revised Code. Treatment shall be 81862  
based on an integrated service delivery model. The treatment 81863  
provider shall do all of the following: 81864

(1) Conduct a professional, comprehensive substance abuse and 81865  
mental health diagnostic assessment of each person who is a 81866  
potential program participant to determine whether the person is 81867  
opioid dependent, alcohol dependent, or opioid and alcohol 81868  
dependent and would benefit from substance abuse treatment and 81869  
monitoring to address the dependency; 81870

(2) Determine treatment needs for each program participant 81871  
based on the diagnostic assessment; 81872

(3) Develop individualized goals and objectives for each 81873  
program participant that follow guidelines provided by the 81874  
Department; 81875

(4) Provide initial treatment to each program participant by 81876  
persons professionally qualified to provide substance abuse 81877  
counseling or treatment; 81878

(5) Provide substance abuse and co-occurring disorder 81879  
treatment that includes psychosocial therapies and monthly 81880  
medication-assisted treatment; 81881

(6) Provide access to long-acting antagonist therapies to the 81882  
same extent that access may be provided to any other 81883  
medication-assisted treatment approved by the United States Food 81884  
and Drug Administration; 81885

(7) Monitor program compliance through regular urinalysis 81886  
drug testing. 81887

(F) Not later than three months after the program has ended, 81888  
Kent State University shall prepare a report of the findings 81889  
obtained from the program, along with its recommendations, if any. 81890  
The University shall include in the report data derived from the 81891

drug testing performed under the program. In preparing the report, 81892  
the University shall obtain assistance from the Department of 81893  
Alcohol and Drug Addition Services. When the report is complete, 81894  
the University shall submit the report to the Governor; President 81895  
of the Senate; Speaker of the House of Representatives; 81896  
Departments of Mental Health, Job and Family Services, and Health; 81897  
and any other agency the Department collaborates with in 81898  
conducting the program. 81899

**Section 737.81.** (A) As used in this section, "source 81900  
separated recyclable material" includes any material such as 81901  
paper, cardboard, metal, glass, plastic, or similar material that 81902  
is segregated by the producer or generator of the material in 81903  
order to reuse or recycle the material. 81904

(B) On and after the effective date of this section through 81905  
December 31, 2013, the board of county commissioners or board of 81906  
directors of a solid waste management district shall not do any of 81907  
the following: 81908

(1) Designate any new facilities or activities for the 81909  
collection or processing of source separated recyclable material; 81910

(2) Exercise rulemaking authority to require source separated 81911  
recyclable material to be delivered to one or more specified 81912  
facilities; 81913

(3) Enter into any new contract for the collection of source 81914  
separated recyclable material that requires the material to be 81915  
delivered to one or more specified facilities. 81916

Any designations, rules, or contracts existing on the 81917  
effective date of this section shall remain in effect and, with 81918  
respect to contracts, may be renewed. 81919

(C) On and after the effective date of this section through 81920  
December 31, 2013, the board of county commissioners or board of 81921

directors of a solid waste management district proposing to 81922  
construct a new recycling processing facility on land owned by the 81923  
district or operate a new recycling processing facility shall do 81924  
so only through a competitive selection process, including 81925  
competitive bidding or competitive proposals. 81926

**Section 737.91.** It is expected that the Futures Committee of 81927  
the Ohio Association of Health Commissioners will release a report 81928  
in June 2012 that evaluates the status of public health services 81929  
in the state and offers ideas for the future role of boards of 81930  
health and health districts in the state. The Legislative 81931  
Committee on Public Health Futures shall review the Future 81932  
Committee's report, and, on the basis of its review, recommend 81933  
legislative and fiscal policies. The policy recommendations shall 81934  
be considered for inclusion in the fiscal year 2013-2014 operating 81935  
budget. The Legislative Committee, not later than October 31, 81936  
2012, shall prepare a report that describes its review of the 81937  
Future Committee's report, and that states, and provides 81938  
explanations of, its policy recommendations. The Legislative 81939  
Committee shall transmit a copy of its report to the Governor, the 81940  
President and Minority Leader of the Senate, the Speaker and 81941  
Minority Leader of the House of Representatives, and the 81942  
chairpersons of the committees of the Senate and House of 81943  
Representatives that will consider the public health phase of the 81944  
2013-2014 operating budget. Upon transmitting its report, the 81945  
Legislative Committee ceases to exist. 81946

There is the Legislative Committee on Public Health Futures. 81947  
Each of the following associations shall appoint one individual to 81948  
the Legislative Committee: the County Commissioners Association of 81949  
Ohio, the Ohio Township Association, the Department of Health, the 81950  
Association of Ohio Health Commissioners, the Ohio Public Health 81951  
Association, the Ohio Environmental Health Association, the Ohio 81952  
Boards of Health Association, the Ohio Municipal League, and the 81953

Ohio Hospital Association. The President and Minority Leader of 81954  
the Senate each shall appoint one member of the Senate to the 81955  
Legislative Committee. The Speaker and Minority Leader of the 81956  
House of Representatives each shall appoint one member of the 81957  
House of Representatives to the Legislative Committee. 81958  
Appointments shall be made as soon as possible but not later than 81959  
thirty days after the effective date of this section. Vacancies on 81960  
the Legislative Committee shall be filled in the same manner as 81961  
the original appointment. 81962

As soon as all members have been appointed to the Legislative 81963  
Committee, the President of the Senate shall fix a time and place 81964  
for the committee to hold its first meeting. At that meeting, the 81965  
committee shall elect from among its membership a chairperson, a 81966  
vice-chairperson, and a secretary. The Director of Health shall 81967  
provide the Legislative Committee with meeting and office space, 81968  
equipment, and professional, technical, and clerical staff as are 81969  
necessary to enable the Legislative Committee successfully to 81970  
complete its work. 81971

**Section 747.10.10.** (A) The Manufactured Homes Commission 81972  
shall adopt the rules required by section 4781.26 of the Revised 81973  
Code as amended by this act not later than December 1, 2012. After 81974  
adopting the rules, the Commission immediately shall notify the 81975  
Director of Health. 81976

(B)(1) The rules governing manufactured home parks adopted by 81977  
the Public Health Council under former section 3733.02 of the 81978  
Revised Code shall remain in effect in a health district until the 81979  
Commission adopts rules under section 4781.26 of the Revised Code 81980  
as amended by this act. 81981

(2) On the effective date of the rules adopted by the 81982  
Commission as required by section 4781.26 of the Revised Code as 81983  
amended by this act, the Public Health Council rules adopted under 81984

former section 3733.02 of the Revised Code cease to be effective 81985  
within the jurisdiction of that board of health. 81986

(C) No board of health of a city or general health district 81987  
shall invoice or collect manufactured home park licensing fees for 81988  
calendar year 2013. 81989

(D) As used in this section: 81990

(1) "Manufactured home park," "board of health," and "health 81991  
district" have the same meanings as in section 4781.01 of the 81992  
Revised Code, as amended by this act. 81993

(2) "Public Health Council" means the Public Health Council 81994  
created by section 3701.33 of the Revised Code. 81995

**Section 747.10.20.** Any manufactured home park license and 81996  
inspection fees collected pursuant to former section 3733.04 of 81997  
the Revised Code by a board of health prior to the transition of 81998  
the annual license and inspection program to the Manufactured 81999  
Homes Commission as required under this act in the amount of two 82000  
thousand dollars or less may be transferred to the health fund of 82001  
the city or general health district. Any of those funds in excess 82002  
of two thousand dollars shall be transferred to the Manufactured 82003  
Homes Commission Regulatory Fund created in section 4781.54 of the 82004  
Revised Code as enacted by this act. 82005

**Section 747.10.30.** Notwithstanding the original term of the 82006  
appointment, the term of the Manufactured Homes Commission member 82007  
who was appointed by the Governor as a representative of the 82008  
Department of Health pursuant to division (B)(2)(b) of section 82009  
4781.02 of the Revised Code shall end on the effective date of 82010  
that section as amended by this act. The initial term of the 82011  
registered sanitarian appointed to the Manufactured Homes 82012  
Commission pursuant to section 4781.02 of the Revised Code, as 82013  
amended by this act, shall expire on the date when the 82014

representative of the Department of Health's term would have 82015  
expired, but for this section. 82016

**Section 747.20.10.** On the effective date of the amendments 82017  
made to section 4765.02 of the Revised Code by this act, the 82018  
member of the renamed State Board of Emergency Medical, Fire, and 82019  
Transportation Services who is an administrator of an adult or 82020  
pediatric trauma center shall cease to be a member of the Board. 82021  
On the effective date of the amendments made to section 4765.02 of 82022  
the Revised Code by this act, the member of the renamed State 82023  
Board of Emergency Medical, Fire, and Transportation Services who 82024  
is a member of the Ohio Ambulance Association shall cease to be a 82025  
member of the Board. On the effective date of the amendments made 82026  
to section 4765.02 of the Revised Code by this act, the member of 82027  
the renamed State Board of Emergency Medical, Fire, and 82028  
Transportation Services who is a physician certified by the 82029  
American board of surgery, American board of osteopathic surgery, 82030  
American osteopathic board of emergency medicine, or American 82031  
board of emergency medicine, is chief medical officer of an air 82032  
medical agency, and is currently active in providing emergency 82033  
medical services shall cease to be a member of the Board. On the 82034  
effective date of the amendments made to section 4765.02 of the 82035  
Revised Code by this act, of the members of the renamed State 82036  
Board of Emergency Medical, Fire, and Transportation Services who 82037  
were EMTs, advanced EMTs, or paramedics and were appointed to the 82038  
Board in that capacity, only the members who are designated by the 82039  
Governor to continue to be members of the Board shall continue to 82040  
be so; the other persons shall cease to be members of the Board. 82041  
On the effective date of the amendments made to section 4765.02 of 82042  
the Revised Code by this act, the member of the renamed State 82043  
Board of Emergency Medical and Transportation Services who is a 82044  
registered nurse and is in the active practice of emergency 82045

nursing shall cease to be a member of the Board. Not later than 82046  
sixty days after the effective date of those amendments, the 82047  
Governor shall appoint to the renamed State Board of Emergency 82048  
Medical and Transportation Services a registered nurse with EMS 82049  
certification who is in the active practice of critical care 82050  
nursing. The Governor shall appoint this member from among three 82051  
persons nominated by the Ohio Nurses Association, three persons 82052  
nominated by the Ohio Association of Critical Care Transport, and 82053  
three persons nominated by the Ohio State Council of the Emergency 82054  
Nurses Association. 82055

On the effective date of the amendments made to section 82056  
4765.02 of the Revised Code by this act, all members of the former 82057  
State Board of Emergency Medical Services who do not cease to be 82058  
members of the renamed State Board of Emergency Medical, Fire, and 82059  
Transportation Services by the terms of this act shall continue to 82060  
be members of the renamed State Board of Emergency Medical, Fire, 82061  
and Transportation Services, and the dates on which the terms of 82062  
the continuing members expire shall be the dates on which their 82063  
terms as members of the former State Board of Emergency Medical 82064  
Services expired. On the effective date of the amendments made to 82065  
section 4765.02 of the Revised Code by this act, the following 82066  
members of the former Ohio Medical Transportation Board shall 82067  
become members of the State Board of Emergency Medical, Fire, and 82068  
Transportation Services, and the dates on which those members' 82069  
terms on the State Board of Emergency Medical, Fire, and 82070  
Transportation Services expire shall be as follows: 82071

(A) The person who owns or operates a private emergency 82072  
medical service organization operating in this state, as 82073  
designated by the Governor, term ends November 12, 2012; 82074

(B) The person who owns or operates a nonemergency medical 82075  
service organization that provides only ambulette services, term 82076

ends November 12, 2012; 82077

(C) The person who is a member of the Ohio Association of 82078  
Critical Care Transport and represents air-based services, term 82079  
ends November 12, 2013. 82080

(D) The person who is a member of the Ohio Association of 82081  
Critical Care Transport and represents a ground-based mobile 82082  
intensive care unit organization, term ends November 12, 2013. 82083

All subsequent terms of office for these six positions on the 82084  
State Board of Emergency Medical, Fire, and Transportation 82085  
Services shall be for three years as provided in section 4765.02 82086  
of the Revised Code. 82087

**Section 747.20.20. TRANSFER OF THE MEDICAL TRANSPORTATION 82088**  
BOARD TO THE DEPARTMENT OF PUBLIC SAFETY 82089

On July 1, 2012, the Medical Transportation Board and all of 82090  
its functions are transferred to the Department of Public Safety. 82091  
As of such date, the Medical Transportation Board shall operate 82092  
under the Department of Public Safety, which shall assume all of 82093  
the Board's functions. All assets, liabilities, any capital 82094  
spending authority related thereto, and equipment and records, 82095  
regardless of form or medium, related to the Medical 82096  
Transportation Board's functions are transferred to the Department 82097  
of Public Safety on July 1, 2012. 82098

No validation, cure, right, privilege, remedy, obligation, or 82099  
liability is lost or impaired by reason of the transfer. All of 82100  
the Medical Transportation Board's rules, orders, and 82101  
determinations continue in effect as rules, orders, and 82102  
determinations of the Department of Public Safety until modified 82103  
or rescinded by the Department of Public Safety. 82104

Subject to the lay-off provisions of sections 124.321 to 82105  
124.328 of the Revised Code, all employees of the Medical 82106

Transportation Board are transferred to the Department of Public Safety and shall retain their positions and all benefits accruing thereto.

No action or proceeding pending on July 1, 2012, is affected by the transfer and any action or proceeding pending on July 1, 2012, shall be prosecuted or defended in the name of the Department of Public Safety or its director. In all such actions and proceedings, the Department of Public Safety or its director, upon application to the court, shall be substituted as a party.

On or after July 1, 2012, notwithstanding any provision of law to the contrary, the Director of Budget and Management shall take any action with respect to budget changes made necessary by the transfer. The Director may transfer cash balances between funds. The Director may cancel encumbrances and reestablish encumbrances or parts of encumbrances as needed in the fiscal year in the appropriate fund and appropriation item for the same purpose and to the same vendor. As determined by the Director, encumbrances reestablished in the fiscal year in a different fund or appropriation item used by an agency or between agencies are appropriated. The Director shall reduce each year's appropriation balances by the amount of the encumbrance canceled in their respective funds and appropriation item. Any unencumbered or unallocated appropriation balances from the previous fiscal year may be transferred to the appropriate appropriation item to be used for the same purposes, as determined by the Director. Any such transfers are hereby appropriated.

**Section 747.31.** A licensee whose license is in a voluntary hold status under Chapter 4735. of the Revised Code on the effective date of this section may apply to the Superintendent of the Division of Real Estate and Professional Licensing for reactivation of the license in accordance with rules adopted by

the Ohio Real Estate Commission or may apply to place the license 82138  
in a resigned status within the ninety-day period after the 82139  
effective date of this section. The license of a licensee who does 82140  
not reactivate or resign a license that is in a voluntary hold 82141  
status on the effective date of this section shall be 82142  
automatically suspended. A suspended license may be reactivated 82143  
within twelve months of the date of suspension, provided that the 82144  
renewal fee plus a penalty fee of fifty per cent of the renewal 82145  
fee is paid to the Superintendent. Failure to reactivate the 82146  
suspended license within twelve months as provided in this section 82147  
shall result in automatic revocation of the license without the 82148  
taking of any action by the Superintendent. 82149

**Section 751.03.** TRANSFER OF MEDICAID AND CHILDREN'S HEALTH 82150  
INSURANCE PROGRAM 82151

(A) Notwithstanding the amendments made by this act to 82152  
section 5111.01 of the Revised Code: 82153

(1) The Office of Medical Assistance shall not replace the 82154  
Department of Job and Family Services as the single state agency 82155  
to supervise the administration of Medicaid until the replacement 82156  
is approved by the United States Centers for Medicare and Medicaid 82157  
Services if such approval is needed. 82158

(2) A contract regarding Medicaid or the Children's Health 82159  
Insurance Program that is in effect on the effective date of this 82160  
section shall continue to be operated in accordance with the 82161  
contract's terms until the contract is amended, expires, or is 82162  
terminated. 82163

(B) Subject to division (A)(1) of this section: 82164

(1) The Office of Medical Assistance is responsible for 82165  
entering into contracts regarding Medicaid and the Children's 82166  
Health Insurance Program on or after the effective date of this 82167

section. 82168

(2) Any rules of the Department of Job and Family Services 82169  
regarding Medicaid or the Children's Health Insurance Program that 82170  
are in effect on the effective date of this section are hereby 82171  
rules of the Office of Medical Assistance and the Medical 82172  
Assistance Director may amend or rescind the rules in a manner 82173  
consistent with the statutes that authorize the rules. 82174

(C) The Director of Job and Family Services and Medical 82175  
Assistance Director shall collaborate as necessary to provide for 82176  
the Office of Medical Assistance to assume the Department of Job 82177  
and Family Services' duties and authorities regarding Medicaid and 82178  
the Children's Health Insurance Program. 82179

(D) It is the General Assembly's intent to amend the laws 82180  
governing Medicaid and the Children's Health Insurance Program to 82181  
replace references to the Director of Job and Family Services with 82182  
references to the Medical Assistance Director and to replace 82183  
references to the Department of Job and Family Services with 82184  
references to the Office of Medical Assistance as appropriate in 82185  
the context of transferring authority for those programs from the 82186  
Department of Job and Family Services to the Office of Medical 82187  
Assistance. 82188

**Section 751.05. FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO** 82189  
**NURSING FACILITIES** 82190

(A) As used in this section: 82191

(1) "Medicaid days," "nursing facility," and "provider" have 82192  
the same meanings as in section 5111.20 of the Revised Code. 82193

(2) "Point days" means the product of the following: 82194

(a) A qualifying nursing facility's quality bonus points for 82195  
fiscal year 2013; 82196

(b) The number of the qualifying nursing facility's Medicaid 82197

days in fiscal year 2012. 82198

(3) "Qualifying nursing facility" means a nursing facility 82199  
that qualifies for a quality bonus for fiscal year 2013 as 82200  
determined under division (C) of this section. 82201

(4) "Quality bonus points" means the amount determined by 82202  
subtracting five from the number of points awarded to a qualifying 82203  
nursing facility under division (C) of section 5111.244 of the 82204  
Revised Code for fiscal year 2013. 82205

(B) In addition to the quality bonuses, if any, to be paid to 82206  
nursing facilities in accordance with section 5111.245 of the 82207  
Revised Code for fiscal year 2013, quality bonuses also shall be 82208  
paid to nursing facilities in accordance with this section for 82209  
fiscal year 2013. 82210

(C) Not later than July 31, 2012, the Department of Job and 82211  
Family Services shall pay a nursing facility provider a quality 82212  
bonus for fiscal year 2013 if the provider's nursing facility is 82213  
awarded more than five points under division (C) of section 82214  
5111.244 of the Revised Code for fiscal year 2013 and at least one 82215  
of the points is awarded to the nursing facility pursuant to 82216  
division (C)(10), (11), (12), (13), or (14) of that section. 82217

(D) The total quality bonus to be paid to the provider of a 82218  
qualifying nursing facility for fiscal year 2013 shall equal the 82219  
product of the following: 82220

(1) The quality bonus per Medicaid day for the fiscal year 82221  
determined for the provider's qualifying nursing facility under 82222  
division (E) of this section; 82223

(2) The number of the qualifying nursing facility's Medicaid 82224  
days in fiscal year 2012. 82225

(E) A qualifying nursing facility's quality bonus per 82226  
Medicaid day for fiscal year 2013 shall be the product of the 82227

|   |  |
|---|--|
| following:  | 82228  |
| (1) The nursing facility's quality bonus points for fiscal year 2013;   | 82229<br>82230   |
| (2) The quality bonus per point for fiscal year 2013 determined under division (F) of this section.   | 82231<br>82232   |
| (F) The quality bonus per point for fiscal year 2013 shall be determined as follows:  | 82233<br>82234   |
| (1) Determine the number of each qualifying nursing facility's point days for fiscal year 2013.   | 82235<br>82236   |
| (2) Determine the sum of all qualifying nursing facilities' point days for fiscal year 2013.  | 82237<br>82238   |
| (3) Divide thirty million dollars by the sum determined under division (F)(2) of this section.  | 82239<br>82240   |
| (G) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code.   | 82241<br>82242<br>82243  |
| (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.   | 82244<br>82245<br>82246  |
| <b>Section 751.10. LICENSURE OF ICFs/MR AS RESIDENTIAL FACILITIES</b>   | 82247<br>82248   |
| (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 license issued under Chapter 3721. of the Revised Code shall not be subject to a penalty under section 5123.99 of the Revised Code for operating the facility without a license issued under section 5123.19 of the Revised Code notwithstanding sections 5123.20 and 5123.99 of the Revised Code. | 82249<br>82250<br>82251<br>82252<br>82253<br>82254<br>82255<br>82256 |

(B) Notwithstanding the amendments by this act to sections 82257  
3702.62, 3721.01, and 5123.19 of the Revised Code and the repeal 82258  
by this act of section 5123.192 of the Revised Code, an 82259  
intermediate care facility for the mentally retarded that is 82260  
licensed as a nursing home under Chapter 3721. of the Revised Code 82261  
on the effective date of this section shall continue to be a 82262  
nursing home for the purposes for which it is considered to be a 82263  
nursing home under the law in effect on the day immediately 82264  
preceding the effective date of those amendments and that repeal 82265  
until the earliest of the following: 82266

(1) The date that the facility's nursing home license is 82267  
revoked or voided under section 3721.07 of the Revised Code; 82268

(2) The date that a residential facility license is obtained 82269  
for the facility under section 5123.19 of the Revised Code; 82270

(3) July 1, 2013. 82271

(C) Notwithstanding the amendment by this act to section 82272  
3721.21 of the Revised Code, a nursing home or part of a nursing 82273  
home certified as an intermediate care facility for the mentally 82274  
retarded on the effective date of this section shall continue to 82275  
be excluded from the definition of "long-term care facility" in 82276  
that section for as long as it is certified as an intermediate 82277  
care facility for the mentally retarded. 82278

(D) Notwithstanding the amendment by this act to section 82279  
3721.50 of the Revised Code, a nursing home or part of a nursing 82280  
home licensed under section 3721.02 or 3721.09 of the Revised Code 82281  
that is certified as an intermediate care facility for the 82282  
mentally retarded on the effective date of this section shall 82283  
continue to be exempt from the franchise permit fee under sections 82284  
3721.50 to 3721.58 of the Revised Code and instead subject to the 82285  
franchise permit fee under sections 5112.30 to 5112.39 of the 82286  
Revised Code for as long as it is certified as an intermediate 82287

care facility for the mentally retarded. 82288

(E) Notwithstanding the amendment by this act to section 82289  
5123.41 of the Revised Code, a nursing home or part of a nursing 82290  
home that is certified as an intermediate care facility for the 82291  
mentally retarded on the effective date of this section shall 82292  
continue to be a residential facility for the purpose of section 82293  
5123.41 of the Revised Code for as long as it is certified as an 82294  
intermediate care facility for the mentally retarded or is 82295  
licensed under section 5123.19 of the Revised Code. 82296

(F) Notwithstanding the amendment by this act to section 82297  
5126.51 of the Revised Code, a nursing home or part of a nursing 82298  
home that is certified as an intermediate care facility for the 82299  
mentally retarded on the effective date of this section shall 82300  
continue to be a residential facility for the purpose of section 82301  
5126.51 of the Revised Code for as long as it is certified as an 82302  
intermediate care facility for the mentally retarded or otherwise 82303  
meets the definition of "residential facility" in section 5123.19 82304  
of the Revised Code. 82305

**Section 751.10.10. ADULT CARE FACILITY LICENSURE TRANSITION** 82306

Pursuant to the amendment and repeal by this act of sections 82307  
5119.22, 5119.70 to 5119.88, and 5119.99 of the Revised Code, the 82308  
Director of Mental Health may convert an adult care facility's 82309  
license in effect immediately before the effective date of this 82310  
section to a license as a residential facility. Until the Director 82311  
converts the license or issues an order denying the conversion, 82312  
the adult care facility's license is deemed to be a residential 82313  
facility license. All rules, orders, and determinations pertaining 82314  
to the adult care facility license continue in effect as rules, 82315  
orders, and determinations pertaining to the residential facility 82316  
license. 82317

|  |       |
|--|-------|
| <b>Section 751.12.</b> TRANSITION FOR CERTIFIED ADULT FOSTER HOMES | 82318 |
| Pursuant to the amendment and repeal by this act of sections       | 82319 |
| 5119.22, 5119.692, and 5119.693 of the Revised Code, the Director  | 82320 |
| of Mental Health may convert an adult foster home's certification  | 82321 |
| in effect immediately before the effective date of this section to | 82322 |
| a license as a residential facility. Until the Director converts   | 82323 |
| the certification or issues an order denying the conversion, the   | 82324 |
| adult foster home's certification is deemed to be a residential    | 82325 |
| facility license. All rules, orders, and determinations pertaining | 82326 |
| to the adult foster home's certification continue in effect as     | 82327 |
| rules, orders, and determinations pertaining to the residential    | 82328 |
| facility license.  | 82329 |
| <br>   |       |
| <b>Section 751.15.</b> AGING IN PLACE PILOT PROGRAM                | 82330 |
| (A) As used in this section:                                       | 82331 |
| (1) "Aging in Place administrator" means the organization          | 82332 |
| that contracts with the Department of Aging pursuant to division   | 82333 |
| (E) of this section to administer the Aging in Place pilot         | 82334 |
| program.   | 82335 |
| (2) "Nursing home" and "residential care facility" have the        | 82336 |
| same meanings as in section 3721.01 of the Revised Code.           | 82337 |
| (3) "Residential facility" means a residential facility as         | 82338 |
| defined in section 5119.22 or a residential facility as defined in | 82339 |
| section 5123.19 of the Revised Code.                               | 82340 |
| (4) "Veteran" means either of the following:                       | 82341 |
| (a) A former member of the armed forces of the United States       | 82342 |
| who served on active military duty and received an honorable       | 82343 |
| discharge or honorable separation;                                 | 82344 |
| (b) A member of the United States army transport service or        | 82345 |
| the United States naval transport service who has an honorable     | 82346 |

report of separation from the active duty military service, form 82347  
DD214 or DD215. 82348

(B) The Department of Aging shall establish the Aging in 82349  
Place pilot program in Butler, Clermont, Hamilton, and Warren 82350  
counties. Up to one hundred eighty eligible individuals may enroll 82351  
in the pilot program to receive home repairs and modifications 82352  
that are covered by the pilot program. The pilot program shall be 82353  
operated for two years. 82354

(C) To be eligible to enroll in the Aging in Place pilot 82355  
program, an individual must meet all of the following 82356  
requirements: 82357

(1) The individual must be at least fifty years of age or a 82358  
veteran of any age. 82359

(2) The individual must be a resident of one of the counties 82360  
in which the pilot program is established. 82361

(3) The individual must reside in a private residence that is 82362  
not a nursing home, residential care facility, residential 82363  
facility, or other facility that may not operate legally without a 82364  
license, certificate, or other authority issued by an agency of 82365  
this state or a political subdivision of this state. 82366

(4) The individual or a member of the individual's household 82367  
must own the private residence in which the individual resides. 82368

(5) The individual must be at risk of moving to a nursing 82369  
home or residential care facility due to a medical condition. 82370

(6) The private residence in which the individual resides 82371  
must be in need of a repair or modification covered by the pilot 82372  
program. 82373

(7) The individual must meet any other requirements specified 82374  
in rules adopted under this section. 82375

(D) The Aging in Place pilot program shall cover home repairs 82376

and modifications specified in rules adopted under this section. 82377

(E) The Department of Aging shall contract with an 82378  
organization that meets all of the following requirements to 82379  
administer the Aging in Place pilot program: 82380

(1) It must have been founded not later than 1975. 82381

(2) It must provide professional and critical home repair and 82382  
modification services to individuals who reside in the counties in 82383  
which the pilot program is established and have low incomes or are 82384  
elderly or disabled. 82385

(3) It must be exempt from federal income taxation under 82386  
section 501(a) and described in section 501(c)(3) of the "Internal 82387  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended. 82388

(F) The Aging in Place administrator may help coordinate the 82389  
home repairs and modifications provided under the Aging in Place 82390  
pilot program with home health services that individuals enrolled 82391  
in the pilot program receive under the Medicaid program or other 82392  
programs. 82393

(G) The Aging in Place administrator shall seek 82394  
nongovernmental funds to help pay the costs of the Aging in Place 82395  
pilot program. 82396

(H) The Department of Job and Family Services shall apply to 82397  
the United States Secretary of Health and Human Services for a 82398  
federal Medicaid waiver to make the Aging in Place pilot program a 82399  
component of the Medicaid program. If the waiver is granted, the 82400  
Department of Job and Family Services shall enter into an 82401  
interagency agreement with the Department of Aging under section 82402  
5111.91 of the Revised Code regarding the Department of Aging's 82403  
duties under this section and the Department of Aging shall 82404  
establish the pilot program as a Medicaid component. If the waiver 82405  
is not granted, the Department of Aging shall establish the pilot 82406  
program as a non-Medicaid program. 82407

(I) The Director of Aging shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. If the Aging in Place pilot program is established as a Medicaid component, the Director of Job and Family Services shall adopt any rules that are necessary for the Director of Aging to be able to adopt the rules for the pilot program.

(J) Not later than ninety days after the termination of the Aging in Place pilot program, the Department of Aging shall prepare a report regarding the pilot program. On completion of the report, the Department shall submit it to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly. The report shall include the Department's conclusions regarding all of the following:

(1) The number of individuals in the state who would benefit from the services covered by the pilot program if the services were made available statewide;

(2) How governmental and nongovernmental resources can be leveraged most efficiently to make the services available statewide;

(3) The costs, if any, that the Medicaid program and other governmental health care programs would incur if the services were available statewide;

(4) The impact that the services would have on the quality of patient care and treatment;

(5) The impact that the services would have on the communities in which they would be provided;

(6) The overall costs and benefits to the state that the services would have.

**Section 751.20.** The amendments by this act to Section 3 of Am. Sub. S.B. 38 of the 120th General Assembly eliminate the

exemptions from the requirements of sections 3701.881 and 5126.28 82438  
of the Revised Code that Section 3 of that act gave to persons 82439  
who, before October 29, 1993, were employed or had applied for 82440  
employment in positions covered by sections 3701.881 and 5126.28 82441  
of the Revised Code. The amendments by this act to Section 3 of 82442  
Am. Sub. S.B. 160 of the 121st General Assembly eliminate the 82443  
exemptions from the requirements of sections 173.41 (as 82444  
subsequently renumbered as 173.394) and 3701.881 of the Revised 82445  
Code that Section 3 of that act gave to persons who, before 82446  
January 27, 1997, were employed or had applied for employment in 82447  
positions covered by sections 173.41 (173.394) and 3701.881 of the 82448  
Revised Code. The exemptions are eliminated in conjunction with 82449  
this act's amendments to sections 173.394, 3701.881, and 5123.081 82450  
of the Revised Code and the repeal of section 5126.28 of the 82451  
Revised Code so that the Directors of Aging, Health, and 82452  
Developmental Disabilities may adopt rules under those amended 82453  
sections to make persons formerly exempt from the requirements of 82454  
sections 173.394, 3701.881, and 5126.28 of the Revised Code 82455  
subject to the requirements of sections 173.394, 3701.881, and 82456  
5123.081 of the Revised Code. 82457

**Section 753.11.** (A) Notwithstanding section 3313.41 of the 82458  
Revised Code, during the period beginning June 30, 2005, and 82459  
ending December 31, 2005, a school district board of education in 82460  
support of economic development within the territory of the 82461  
district may dispose of real property that it owns in its 82462  
corporate capacity, and that exceeds in value ten thousand 82463  
dollars, by direct sale in lieu of offering the property for sale 82464  
at public auction as provided in division (A) of that section, in 82465  
lieu of offering the property for sale to an entity listed in 82466  
division (C) of that section, or in lieu of offering the property 82467  
for sale to a community school as provided in division (G) of that 82468

section, if all of the following conditions are satisfied: 82469

(1) The real property is encumbered by easements, liens, or 82470  
other use restrictions that benefit the person acquiring the 82471  
property under this section; 82472

(2) The real property was part of or adjacent to real 82473  
property previously disposed of by the board of education; 82474

(3) The real property when sold will be used for commercial 82475  
development. 82476

(B) Notwithstanding division (A)(3) of this section, on or 82477  
after the effective date of this section, the real property may be 82478  
used for residential development as well as commercial 82479  
development. 82480

**Section 753.13.** That Section 2 of Am. Sub. S.B. 63 of the 82481  
121st General Assembly is repealed. 82482

This repeal releases the use, ownership, and conveyance 82483  
restrictions, and rescinds the state's right of reversion, with 82484  
respect to real estate conveyed to the City of Broadview Heights 82485  
under Section 1 of Am. Sub. S.B. 63 of the 121st General Assembly. 82486

**Section 753.14.** Within thirty days after the effective date 82487  
of Section 753.13 of this act, the Auditor of State, with the 82488  
assistance of the Attorney General, shall, consistent with that 82489  
section, prepare a deed to the real estate. The deed shall be 82490  
executed by the Governor in the name of the state, countersigned 82491  
by the Secretary of State, sealed with the Great Seal of the 82492  
State, presented in the office of the Auditor of State for 82493  
recording, and delivered to the City of Broadview Heights. The 82494  
City of Broadview Heights shall present the deed for recording in 82495  
the Office of the Cuyahoga County Recorder. 82496

**Section 755.10.** One year after the effective date of this act, the Director of the Department of Rehabilitation and Correction, after consultation with the State Highway Patrol, the Department of Public Safety, the Fraternal Order of Police of Ohio, and the Buckeye State Sheriff's Association, shall submit a written report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives on the effectiveness of the State Highway Patrol's authority to enforce the criminal laws in the Lake Erie Correctional Institution pursuant to section 5503.03 of the Revised Code, as amended by this act.

**Section 757.10.** A board of township trustees or the legislative authority of a municipal corporation to which section 5705.19 or 5705.252 of the Revised Code applies, as enacted or amended by this act, may adopt the resolution proposing the levy of the tax or the combined questions authorized by those enactments or amendments and certify a copy of the resolution to the proper county board of elections as otherwise prescribed by law after this act becomes law and before the effective date of those enactments or amendments, requesting that the board of elections submit the proposal to the electors at the general election occurring on November 6, 2012. The board of elections, upon receiving a properly certified copy of such a resolution not later than four p.m. on August 8, 2012, shall submit the proposal to electors at that election as otherwise provided under section 5705.25 or 5705.252 of the Revised Code, and such actions of the board of township trustees, municipal legislative authority, and board of elections are hereby ratified.

**Section 757.20.** As used in this section, "qualified property"

means real property that either: 82527

(A) Satisfies the qualifications for tax exemption under the 82528  
terms of section 5709.07 of the Revised Code and is owned by a 82529  
church as defined in that section; 82530

(B) Satisfies the qualifications for tax exemption under the 82531  
terms of section 5709.08 of the Revised Code and is owned by a 82532  
township that acquired the property from a county. 82533

Notwithstanding section 5713.081 of the Revised Code, when 82534  
qualified property has not received tax exemption due to a failure 82535  
to comply with Chapter 5713. or section 5715.27 of the Revised 82536  
Code, the current owner of the property, or the prior owner of the 82537  
property requesting exemption from prior taxes, at any time on or 82538  
before twelve months after the effective date of this section, may 82539  
file with the Tax Commissioner an application requesting that the 82540  
property be placed on the tax-exempt list and that all unpaid 82541  
taxes, penalties, and interest on the property be abated. 82542

The application shall be made on the form prescribed by the 82543  
Tax Commissioner under section 5715.27 of the Revised Code and 82544  
shall list the name of the county in which the property is 82545  
located; the property's legal description; its taxable value; the 82546  
amount in dollars of the unpaid taxes, penalties, and interest; 82547  
the date of acquisition of title to the property; the use of the 82548  
property during any time that the unpaid taxes accrued; and any 82549  
other information required by the Tax Commissioner. The county 82550  
auditor shall supply the required information upon request of the 82551  
applicant. 82552

Upon request of the applicant, the county treasurer shall 82553  
determine if all taxes, penalties, and interest that became a lien 82554  
on the qualified property before it first was used for an exempt 82555  
purpose and all special assessments charged against the property 82556  
have been paid in full. If so, the county treasurer shall issue a 82557

certificate to the applicant stating that all such taxes, 82558  
penalties, interest, and assessments have been paid in full. Prior 82559  
to filing the application with the Tax Commissioner, the applicant 82560  
shall attach the county treasurer's certificate to it. The Tax 82561  
Commissioner shall not consider an application filed under this 82562  
section unless such a certificate is attached to it. 82563

Upon receipt of the application and after consideration of 82564  
it, the Tax Commissioner shall determine if the applicant meets 82565  
the qualifications set forth in this section, and if so shall 82566  
issue an order directing that the property be placed on the 82567  
tax-exempt list of the county and that all unpaid taxes, 82568  
penalties, and interest for every year the property met the 82569  
qualifications for exemption described in section 5709.07 or 82570  
5709.08 of the Revised Code be abated. If the Tax Commissioner 82571  
finds that the property is not now being so used or is being used 82572  
for a purpose that would foreclose its right to tax exemption, the 82573  
Tax Commissioner shall issue an order denying the application. 82574

If the Tax Commissioner finds that the property is not 82575  
entitled to tax exemption and to the abatement of unpaid taxes, 82576  
penalties, and interest for any of the years for which the current 82577  
or prior owner claims an exemption or abatement, the Tax 82578  
Commissioner shall order the county treasurer of the county in 82579  
which the property is located to collect all taxes, penalties, and 82580  
interest due on the property for those years in accordance with 82581  
law. 82582

The Tax Commissioner may apply this section to any qualified 82583  
property that is the subject of an application for exemption 82584  
pending before the Tax Commissioner on the effective date of this 82585  
section, without requiring the property owner to file an 82586  
additional application. The Tax Commissioner also may apply this 82587  
section to any qualified property that is the subject of an 82588  
application for exemption filed on or after the effective date of 82589

this section and on or before twelve months after that effective 82590  
date, even though the application does not expressly request 82591  
abatement of unpaid taxes, penalties, and interest. 82592

**Section 757.51.** The amendment by this act of section 5713.03 82593  
of the Revised Code applies to the first tax year, after tax year 82594  
2012, to which division (A) or (B) of section 5715.24 of the 82595  
Revised Code applies in the county. 82596

**Section 757.61.** The General Assembly hereby declares that the 82597  
intent of the amendment by this act of section 5739.02 of the 82598  
Revised Code is to clarify the law as it existed prior to the 82599  
amendment by this act of that section. 82600

**Section 806.10.** The items of law contained in this act, and 82601  
their applications, are severable. If any item of law contained in 82602  
this act, or if any application of any item of law contained in 82603  
this act, is held invalid, the invalidity does not affect other 82604  
items of law contained in this act and their applications that can 82605  
be given effect without the invalid item of law or application. 82606

**Section 809.10.** Sections 301.11 to 301.15 of this act are and 82607  
remain in full force and effect commencing on July 1, 2012, and 82608  
terminating on June 30, 2014, for the purpose of drawing money 82609  
from the state treasury in payment of liabilities lawfully 82610  
incurred under those sections, and on June 30, 2014, and not 82611  
before, the moneys hereby appropriated lapse into the funds from 82612  
which they are severally appropriated. If, under Section 1c of 82613  
Article II, Ohio Constitution, Sections 301.11 to 301.15 of this 82614  
act do not take effect until after July 1, 2012, the sections are 82615  
and remain in full force and effect commencing on that effective 82616  
date. 82617

**Section 812.10. Sections subject to referendum: general** 82618  
**effective date.** Except as otherwise provided in this act, the 82619  
amendment, enactment, or repeal by this act of a section is 82620  
subject to the referendum under Ohio Constitution, Article II, 82621  
Section 1c and therefore takes effect on the ninety-first day 82622  
after this act is filed with the Secretary of State. 82623

**Section 812.11. Sections subject to referendum: special** 82624  
**effective date.** The amendment by this act of sections 4735.01, 82625  
4735.02, 4735.052, 4735.10, 4735.13, 4735.14, 4735.141, and 82626  
4735.142 of the Revised Code is subject to the referendum under 82627  
Ohio Constitution, Article II, Section 1c and takes effect on the 82628  
ninetieth day after the day on which this section takes effect. 82629

**Section 812.20. Sections exempt from referendum: general** 82630  
**effective date.** The amendment, enactment, or repeal by this act of 82631  
the following sections is exempt from the referendum under Ohio 82632  
Constitution, Article II, Section 1d and section 1.471 of the 82633  
Revised Code and therefore takes effect immediately when this act 82634  
becomes law: 82635

Sections 145.01, 145.012, 167.04, 306.04, 306.36, 340.091, 82636  
901.54, 2927.023, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 82637  
3125.41, 3734.131, 3734.15, 3743.06, 3743.19, 3752.06, 4163.07, 82638  
4303.22, 4501.01, 4501.06, 4503.81, 4506.01, 4506.03, 4506.22, 82639  
4506.25, 4511.78, 4513.50, 4905.01, 4905.02, 4905.03, 4905.05, 82640  
4905.06, 4905.402, 4905.54, 4905.57, 4905.58, 4905.80, 4905.801, 82641  
4905.81, 4905.82, 4905.83, 4905.84, 4907.01, 4907.02, 4907.04, 82642  
4907.08, 4907.19, 4907.28, 4907.35, 4907.37, 4907.43, 4907.49, 82643  
4907.57, 4907.59, 4907.60, 4907.61, 4907.62, 4909.01, 4909.02, 82644  
4909.03, 4909.17, 4909.22, 4909.24, 4909.28, 4911.01, 4919.75, 82645  
4919.76, 4919.77, 4919.78, 4919.79, 4919.99, 4921.01, 4921.02, 82646  
4921.03, 4921.04, 4921.05, 4921.06, 4921.07, 4921.08, 4921.09, 82647

4921.10, 4921.101, 4921.11, 4921.12, 4921.13, 4921.14, 4921.15, 82648  
4921.16, 4921.17, 4921.18, 4921.19, 4921.20, 4921.21, 4921.23, 82649  
4921.24, 4921.25, 4921.26, 4921.27, 4921.28, 4921.30, 4921.31, 82650  
4921.32, 4921.34, 4921.35, 4921.36, 4921.37, 4921.38, 4921.39, 82651  
4921.40, 4921.99, 4923.01, 4923.02, 4923.03, 4923.04, 4923.05, 82652  
4923.06, 4923.07, 4923.08, 4923.09, 4923.10, 4923.11, 4923.12, 82653  
4923.13, 4923.14, 4923.15, 4923.17, 4923.20, 4923.26, 4923.99, 82654  
4927.01, 4929.01, 4929.02, 4933.18, 4933.19, 4939.01, 4953.04, 82655  
4961.03, 4965.54, 5119.691, 5503.02, 5503.34, 5743.031, and 82656  
5751.033 of the Revised Code. 82657

Section 205.10 of Am. Sub. H.B. 114 of the 129th General 82658  
Assembly, as amended by Am. Sub. H.B. 153 of the 129th General 82659  
Assembly. 82660

Section 201 of Sub. H.B. 123 of the 129th General Assembly. 82661

Section 1 of H.B. 124 of the 129th General Assembly. 82662

Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 82663  
207.20.90, 209.10, 209.30, 211.10, 215.10, 223.10, 229.10, 243.10, 82664  
261.10, 261.10.10, 261.10.20, 261.10.30, 261.10.40, 261.10.50, 82665  
261.10.60, 261.10.70, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 82666  
261.20.40, 261.20.50, 261.20.60, 261.20.70, 261.20.80, 261.20.90, 82667  
261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.50, 261.30.60, 82668  
261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 82669  
263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.20, 267.10.40, 82670  
267.30.40, 279.10, 283.10, 287.10, 291.10, 307.10, 309.10, 313.10, 82671  
315.10, 323.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 82672  
367.10, 369.10, 371.10, 371.30.30, 371.50.61, 371.50.65, 82673  
371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 82674  
503.50, and 521.70 of Am. Sub. H.B. 153 of the 129th General 82675  
Assembly. 82676

Section 247.10 of Am. Sub. H.B. 153 of the 129th General 82677  
Assembly, as amended by Sub. H.B. 319 of the 129th General 82678

|   |  |
|---|--|
| Assembly.   | 82679  |
| Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the<br>129th General Assembly, as amended by Sub. H.B. 371 of the 129th<br>General Assembly.  | 82680<br>82681<br>82682  |
| Sections 701.70.10, 701.80, and 733.10 of this act.   | 82683  |
| Sections 812.20 and 812.21 of this act.   | 82684  |
| Section 812.30 of this act insofar as it refers to parts of<br>sections that are exempt from the referendum.  | 82685<br>82686   |
| <b>Section 812.21. Sections exempt from the referendum: special<br/>effective date.</b> The amendment by this act of sections 3313.976,<br>3313.978, and 3313.979 of the Revised Code is exempt from the<br>referendum under Ohio Constitution, Article II, Section 1d and<br>section 1.471 of the Revised Code and is therefore entitled to<br>take effect immediately when this act becomes law. However, the<br>amendment of those sections takes effect on July 1, 2012, or the<br>date this act becomes law, whichever is later.   | 82687<br>82688<br>82689<br>82690<br>82691<br>82692<br>82693<br>82694                                     |
| <b>Section 812.30. Mixed sections: general effective dates.</b> The<br>sections listed in the left-hand column of the following table<br>combine amendments by this act that are and that are not exempt<br>from the referendum. The middle column identifies amendments to<br>the listed sections that are subject to the referendum under Ohio<br>Constitution, Article II, Section 1c and therefore take effect on<br>the ninety-first day after this act is filed with the Secretary of<br>State. The right-hand column identifies amendments to the listed<br>sections that are exempt from the referendum under Ohio<br>Constitution, Article II, Section 1d and section 1.471 of the<br>Revised Code and therefore take effect immediately when this act<br>becomes law. | 82695<br>82696<br>82697<br>82698<br>82699<br>82700<br>82701<br>82702<br>82703<br>82704<br>82705<br>82706 |
| Section of Amendments subject to<br>law referendum  | Amendments exempt from<br>referendum 82707   |

|          |  |   |  |
|----------|--|---|--|
| 4905.90  | The amendment in division (A)  | All amendments except as described in the middle column   | 82708  |
| 5111.941 | The amendment that inserts division (A)(4)   | All amendments except as described in the middle column   | 82709  |
| 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" | 82710  |
| 5119.69  | The amendments in relettered divisions (D)(1)(b) and (c)   | All amendments except as described in the middle column   | 82711  |
| 5502.01  | All amendments except as described in the right-hand column  | The amendment in division (F)   | 82712  |
|          | <b>Section 815.20.</b> The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act: |   | 82713<br>82714<br>82715<br>82716<br>82717<br>82718<br>82719<br>82720 |
|          | Section 102.02 of the Revised Code as amended by both Am. Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly.   |   | 82721<br>82722   |
|          | Section 121.04 of the Revised Code as amended by both Am. Sub. H.B. 153 and Sub. H.B. 229 of the 129th General Assembly.   |   | 82723<br>82724   |

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| Section 123.01 of the Revised Code as amended by both Am.          | 82725 |
| Sub. H.B. 133 and Am. Sub. H.B. 153 of the 129th General Assembly. | 82726 |
| Section 124.11 of the Revised Code as amended by both Am.          | 82727 |
| Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.        | 82728 |
| Section 149.43 of the Revised Code as amended by both Sub.         | 82729 |
| H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly.       | 82730 |
| Section 1923.01 of the Revised Code as amended by both Sub.        | 82731 |
| H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly.        | 82732 |
| Section 1923.02 of the Revised Code as amended by both Sub.        | 82733 |
| H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly.        | 82734 |
| Section 3301.55 of the Revised Code as amended by both Am.         | 82735 |
| Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.        | 82736 |
| Section 4123.54 of the Revised Code as amended by both Am.         | 82737 |
| Sub. H.B. 562 and Am. Sub. S.B. 334 of the 127th General Assembly. | 82738 |
| Section 4731.22 of the Revised Code as amended by both H.B.        | 82739 |
| 78 and Am. Sub. H.B. 93 of the 129th General Assembly.             | 82740 |